United States Court of Appeals

for the Second Circuit

APPELLANT'S APPENDIX

B
P/S

75-1183

ORIGINAL

In The

United States Court of Appeals

For The Second Circuit

UNITED STATES OF AMERICA,

Appellee,

vs.

SUEY WING NG,

Defendant-Appellant.

On Appeal from the United States District Court for the Southern District of New York

APPELLANT'S APPENDIX

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UNITED STATES COURT OF APPEALS
FILED
MAY 19 1975
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SECOND CIRCUIT

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DOCKET ENTRIES

JUDGE WEINFELD

CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

75 CRIM. 173

D. C. Form No. 100 Rev.

TITLE OF CASE	ATTORNEYS
THE UNITED STATES vs. SUEY WING NG, a/k/a "Ah Suey" (a 2 Yam 7 spies)	For U.S.: Alan B. Kaufman, AUSA. 791-1929 For Defendant: Carmine Perrotta 80 Broad St, NYC 10004 944-4500

4/28/75

STATISTICAL RECORD	COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.
(07)						
J.S. 2 mailed	Clerk					
J.S. 3 mailed	Marshal					
Violation	Docket fee					
Title 21						
Sec. 846, 812, 841(a)(1), (b).						
Consp. to viol. Fed. Narco. Laws. (Ct. 1) Distr. & possess. w/intent to distr. Heroin, I. (Cts. 2-7)						
(Seven Counts)						

DATE	PROCEEDINGS
2-21-75	Filed indictment. (Superseding 74Cr953 and referred to Weinfeld,J.)
02-28-75	Filed Govt's affdvt. for a W/H/C to produce deft. - writ issued - ret. 3-10-75
03-24-75	Deft. appears(atty. present)--Jury empanelled and sworn. Trial begun before Weinfeld,J.
03-25-75	Trial contd.
03-26-75	" "
03-27-75	Trial contd. and concluded. Jury begins deliberation.
03-28-75	Trial contd. Jury continues deliberations. Jury returns a verdict of GUILTY as to ct. 1 only. No verdict reached on cts. 2 thru 7. PSI ordered. Sentence adj. until 4/28/75 at 10am in Rm.706. Deft. contd. on bail previously fixed at $50,000, PRB secured by $5,000 cash. Weinfeld,J.
	(guilt)

DATE	PROCEEDINGS
28-75	FILED JUDGMENT(atty. Thomas O'Rourke,present)---The deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of THREE(3) YEARS on ct. 1. Pursuant to the provisions of Title 21, Section 841, US Code, the deft. is placed on Special Parole for a term of THREE(3) YEARS to commence upon expiration of confinement. Deft. contd. on bail pending appeal. Special condition being that the record, the appendix on appeal and appellant's points be filed within 20 days from this date and the appeal prosecuted expeditiously. Weinfeld,J. (copies issued)
-28-75	Addtl. information taken from indictment: Deft. contd. on bail pending appeal. Bail previously fixed at $50,000 PRB secured by $5,000 cash. Special Condition being that the appeal be prosecuted expeditiously and that the record and the appendix on appeal and appelant's points be filed within 20 days from this date. CTS.2 THRU 7 remain open pending appeal and case is put in suspense as to these cts. Weinfeld,J.
-28-75	Filed defts. notice of appeal to the USCA from the judgment of conviction rendered on April 28,1975.(copy mailed to U.S. Atty's Office and to deft. at 85-28 144St,Queens,NY)

(B)

ARK:slc
74-2939
n-805

10 a.m.

INDICTMENT

3a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA, :

- v - : INDICTMENT

SUEY WING NG, a/k/a "Ah Suey", : S 75 Cr.

Defendant. :

----------x

The Grand Jury charges:

1. From on or about the 1st day of July, 1972 and continuously thereafter up to and including on or about April 1, 1973, in the Southern District of New York, SUEY WING NG, a/k/a "Ah Suey", the defendant, and Lam Kin Sang, Or Choi Sik, a/k/a "Danny Or," a/k/a "Ah Dau," Norman Low, a/k/a "Fatty Man," Chan Yuk Shui, Chan Yuk Wo, Mui Kai Foon, a/k/a "Mong Wong," Lam Man Chung, a/k/a "Ja B Lam," Szeto Suey Nom, Keung Kam Shui, Lee Louie, a/k/a "Lee Yook Soon," Rafael Colon, a/k/a "Baby," Jose Millan, John Doe, a/k/a "Juan," and Jane Doe, a/k/a "Anna Ortiz,' named herein as co-conspirators but not as defendants, and others to the Grand Jury unknown, unlawfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

2. It was part of said conspiracy that the said defendant and co-conspirators, unlawfully, intentionally and knowingly, would distribute and possess with intent to distribute Schedule I narcotic drug controlled substances, the exact amounts thereof being to the Grand Jury unknown,

in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York:

1. In or about July, 1972, co-conspirator Lam Kin Sang distributed approximately one pound of heroin to co-conspirator Or Choi Sik, a/k/a "Danny Or," a/k/a "Ah Dau."

2. In or about May or June, 1972, co-conspirator Rafael Colon, a/k/a "Baby", introduced co-conspirator Or Choi Sik, a/k/a "Danny Or", a/k/a "Ah Dau," to co-conspirators Jose Millan and John Doe, a/k/a "Juan".

3. In or about July, 1972, co-conspirators Jose Millan and John Doe, a/k/a "Juan" purchased approximately one-half pound of heroin from co-conspirator Or Choi Sik, a/k/a "Danny Or," a/k/a "Ah Dau," at the Collingwood Hotel, New York, New York.

4. In or about July, 1972, co-conspirator Mui Kai Poon, a/k/a "Mong Wong," purchased approximately one-half pound of heroin from co-conspirator Or Choi Sik, a/k/a "Danny Or," a/k/a "Ah Dau," at the Collingwood Hotel, New York, New York.

5. In or about October, 1972, co-conspirator Lam Kin Sang met with defendant SUEY WING NG, a/k/a "Ah Suey" at Mong Gung Restaurant, 30 Pell Street, New York, New York, at which time SUEY WING NG, a/k/a "Ah Suey" asked Lam Kin Sang to find a customer for one and one-half pounds of heroin that he, SUEY WING NG, a/k/a "Ah Suey" had.

6. In or about October, 1972, co-conspirators Chan Yuk Shui and Chan Yuk Wo agreed with co-conspirator Lam Kin Sang to purchase 1-1/2 pounds of heroin for $11,500, and Chan Yuk Shui and Chan Yuk Wo gave $11,500 to Lam Kin Sang.

7. In or about October, 1972, co-conspirator Chan Yuk Wo received approximately 1-1/2 pounds of heroin at 179 Canal Street, New York, New York.

8. In or about October, 1972, co-conspirator Lam Kin Sang gave $11,500 to defendant SUEY WING NG, a/k/a "Ah Suey".

9. In or about December, 1972, co-conspirator Lam Kin Sang met with defendant SUEY WING NG, a/k/a "Ah Suey" at which time SUEY WING NG, a/k/a "Ah Suey" asked Lam Kin Sang to find a customer for another 1-1/2 pounds of heroin.

10. In or about December, 1972, co-conspirator Or Choi Sik, a/k/a "Danny Or," a/k/a "Ah Dau," agreed with co-conspirator Lam Kin Sang to purchase 1-1/2 pounds of heroin for $16,500, and Or Choi Sik, a/k/a "Danny Or," a/k/a "Ah Dau" gave $16,500 to Lam Kin Sang.

11. In or about December, 1972, co-conspirator Or Choi Sik, a/k/a "Danny Or," a/k/a "Ah Dau," received approximately 1-1/2 pounds of heroin at 179 Canal Street, New York, New York.

12. In or about December, 1972, co-conspirator Jane Doe, a/k/a "Anna Ortiz" purchased approximately one-half pound of heroin from co-conspirator Or Choi Sik, a/k/a "Danny Or," a/k/a "Ah Dau."

13. In or about December, 1972, co-conspirator Lam Kin Sang gave $11,500 to defendant SUEY WING NG, a/k/a "Ah Suey".

14. In or about December, 1972 or January, 1973, co-conspirator Lam Kin Sang met with defendant SUEY WING NG, a/k/a "Ah Suey", at which time SUEY WING NG, a/k/a "Ah Suey" asked Lam Kin Sang to find a customer for another 1-1/2 pounds of heroin.

ARK:lq
n-805

15. In or about December, 1972 or January, 1973, co-conspirator Lam Man Chung, a/k/a "Ja B Lam," agreed with co-conspirator Lam Kin Sang to buy one and one-half pounds of heroin for $16,500, and Lam Man Chung, a/k/a "Ja B Lam," gave Lam Kin Sang $16,500.

16. In or about December, 1972 or January, 1973, co-conspirator Szeto Suey Nom received approximately 1-1/2 pounds of heroin at 179 Canal Street, New York, New York.

17. In or about December, 1972 or January, 1973, co-conspirator Lam Kin Sang gave $11,500 to defendant SUEY WING NG, a/k/a "Ah Suey."

18. In or about December, 1972 or January, 1973, co-conspirator Lam Kin Sang met with defendant SUEY WING NG, a/k/a "Ah Suey," at which time SUEY WING NG, a/k/a "Ah Suey," asked Lam Kin Sang to find a customer for another 1-1/2 pounds of heroin.

19. In or about December, 1972 or January, 1973, co-conspirator Keung Kam Shui agreed with co-conspirator Lam Kin Sang to buy 1-1/2 pounds of heroin for $14,500.

20. In or about December, 1972 or January, 1973, co-conspirator Keung Kam Shui received approximately 1-1/2 pounds of heroin at 83 Bayard Street, New York, New York and gave co-conspirator Lam Kin Sang $14,000.

21. In or about December, 1972 or January, 1973, co-conspirator Lam Kin Sang gave $11,500 to defendant SUEY WING NG, a/k/a "Ah Suey."

22. In or about January, 1973, co-conspirator Lam Kin Sang met with defendant SUEY WING NG, a/k/a "Ah Suey" at which time SUEY WING NG, a/k/a "Ah Suey", asked Lam Kin Sang to find a customer for approximately one pound of heroin.

23. In or about January, 1973, co-conspirator Lee Louie, a/k/a "Lee Yook Soon," agreed with co-conspirator Lam Kin Sang to buy one pound of heroin for $12,000.

24. In or about January, 1973 co-conspirator Lee Louie, a/k/a "Lee Yook Soon," and co-conspirator Norman Low, a/k/a "Fatty Man," received approximately 1 pound of heroin at 83 Bayard Street, New York, New York, and Lee Louie, a/k/a "Lee Yook Soon," gave co-conspirator Lam Kin Sang $12,000.

25. In or about January, 1973 co-conspirator Lam Kin Sang gave approximately $10,000 to defendant SUEY WING NG, a/k/a Ah Suey."

(Title 21, United States Code, Section 846).

SECOND COUNT

The Grand Jury further charges:

In or about October, 1972, in the Southern District of New York, SUEY WING NG, a/k/a "Ah Suey," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 1-1/2 pounds of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(A); Title 18, United States Code, Section 2.)

THIRD COUNT

The Grand Jury further charges:

In or about December, 1972, in the Southern District of New York, SUEY WING NG, a/k/a "Ah Suey," the defendant, unlawfully, intentionally and knowingly did distribute and possess with the intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 1-1/2 pounds of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

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FOURTH COUNT

The Grand Jury further charges:

In or about December, 1972, in the Southern District of New York, SUEY WING NG, a/k/a "Ah Suey," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately three pounds of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A): Title 18, United States Code, Section 2.)

FIFTH COUNT

The Grand Jury further charges:

In or about December, 1972 or January, 1973, in the Southern District of New York, SUEY WING NG, a/k/a "Ah Suey," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 1-1/2 pounds of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A), Title 18, United States Code, Section 2.)

SIXTH COUNT

The Grand Jury further charges:

In or about December, 1972 or January, 1973, in the Southern District of New YOrk, SUEY WING NG, a/k/a "Ah Suey," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 1-1/2 pounds of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

SEVENTH COUNT

The Grand Jury further charges:

In or about January, 1973, in the Southern District of New York, SUEY WING NG, a/k/a "Ah Suey," the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 1 pound of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

FOREMAN

PAUL J. CURRAN
United States Attorney

OPENING STATEMENT BY GOVERNMENT

1 rgsr 1-1

UNITED STATES OF AMERICA

- v s - 75 Cr. 173

SUEY WING NG, a/k/a "AH SUEY".

March 24, 1975

THE COURT: Mr. Kaufman.

MR. KAUFMAN: Thank you, your Honor.

May it please the Court, Mr. O'Rourke, ladies and gentlemen of the jury.

My name is Alan Kaufman and I am an Assistant United States Attorney. It is my duty to present this case to you on behalf of the United States and seated at the counsel table with me at times during this trial is Jack Toal who is a Special Agent with the Drug Enforcement Administration.

My purpose in talking to you now is tell you very briefly what this case is all about and to preview the evidence for you so that when you hear the testimony you will know where it is or leading to.

As you know, this is a criminal case. The defendant, Suey Wing NG is charged with violation of the Federal Narcotics Laws, specifically trafficking in large quantities of heroin.

The first count of the indictment charges Suey Wing NG with conspiring with other individuals to possess

and distribute quantities of heroin here in New York City during the latter half of 1972 and early 1973. This is referred to as the conspiracy count.

The defendant is also charged in Counts 2 through 7 with actually distributing and possessing with intent to distribute varying quantities of heroin ranging anywhere from one pound to three pounds, depending on the count being considered. These counts are called the substantive counts to distinguish them from the conspiracy.

Now, let me talk for a moment about the conspiracy that you will hear about at this trial. Conspiracy is basically an agreement among two or more people to violate the law and such an agreement by its very nature cannot be shown by any formal document because the conspirators did not sit down and write out a formal contract setting forth the terms of their enterprise. What a conspiracy is is an informal working arrangement among a number of people to violate the law and the Government will show you the existence of this conspiracy.

MR. O'ROURKE: I will object.

THE COURT: You are really going into matters of law that is the function of the Court and that is the way I usually instruct the jury. Why don't you allow me to instruct the jury at the proper time.

MR. KAUFMAN: I will.

THE COURT: Get down to what you are going to prove or intend to prove.

MR. KAUFMAN: A conspiracy to deal in heroin requires that those involved fill different roles and have different functions. In this conspiracy you will hear about the supplier of heroin and you will hear about the middleman or the distributor and you will hear about the wholesale customers who in turn sold the heroin to the ultimate consumer.

The man on trial before you, Suey Wing NG, was the supplier of the heroin, the man on top who through his distributor sold and distributed at least ten pounds of heroin.

During a part of this conspiracy the distributor was a man named Lam Kin Sang. Lam Kin Sang found the customers, collected the money and arranged the delivery of the heroin, and when the transaction was completed he delivered the money to the defendant, Suey Wing NG.

You will hear that Suey Wing NG usually sold his heroin in packages of one and a half pounds and that his price for the heroin was $11,500 and that is the amount of money that Lam King Sang turned over to Suey Wing NG every time there was a sale of that amount of heroin.

You will hear testimony about six separate sales of heroin in which Suey Wing NG was the supplier of the heroin and Lam Kin Sang was the distributor with a number of other individuals being the wholesale customers.

Now, during this trial you will hear from Lam King Sang, the distributor for Suey Wing NG, testifying for the Government and Lam King Sang will tell you about the inner-workings of this conspiracy.

You are probably not going to like Lam Kin Sang because he will admit he was deeply involved in the heroin business. The Government does not expect you to like Lam Kin Sang or any others like him, nor does the Government pretend that he is an upstanding member of the community. He is certainly not a model of virtue, but what he is, however, is a person uniquely qualified to testify here because of his involvement in this heroin business. Lam Kin Sang was there and he knows what happened. When he testifies, he will be telling you about the inside picture of his heroin conspiracy.

Now, just a bit more detail about what the Government will prove. The evidence will show that in about October of 1972 Lam Kin Sang was working in a restaurant in China Town and he met the defendant whom he knew as Ah Suey and Ah Suey told Lam Kin Sang that he had

one and a half pounds of heroin to sell and asked Lam if Lam could find a customer for it and Lam agreed and he found the customer in his partners at the time, two brothers by the name of Chan Yuk Shui and Chan Uk Wo. They got up $11,500 and gave it to Lam and Lam in turn informed Ah Suey that the money was ready and Ah Suey told Lam that the heroin would be ready to be picked up later that evening at a recreation club that he frequented on Canal Street. Ah Suey instructed Lam that the heroin would be in a package on the floor of the stairway on the third floor of that building. At the scheduled time Lam Kin Sang and the two Chan brothers went to that building and they picked up the heroin where Ah Suey said it would be.

After Lam returned to his restaurant Ah Suey came to the restaurant and Lam turned over $11,500 to the defendant. Later on Lam saw the Chan brothers and asked them if the heroin was any good and the Chan brothers said that it was fine. That was the first of six transactions that Lam Kin Sang had with the defendant Ah Suey where Ah Suey had heroin to sell and Lam would find the customers.

I won't spend the time now detailing the specifics of each one of these transactions, but the method of the operation in each transaction, however, was fairly similar, but the names of the wholesale customer changed

and the location of some of the events changed. You will hear that in November of 1972 Lam had opened a gambling club on Bayard Street and some meetings and transactions occurred there. You will also hear that in the subsequent transactions the price of the heroin to the wholesale customer increased because Lam started to take a cut of the profits. What always remained constant, however, was that Suey Wing NG, Ah Suey, the defendant, was the one supplying the heroin.

Now, this is a serious and important matter. It is important to the defendant on trial before you, for he is charged with grave crimes. It is equally important to the Government and to the public. I am sure that you will pay attention to the evidence, all the evidence as it comes before you and that you won't pass any judgment or form any conclusions until the evidence is in. That is all anybody can ask of you, that you fairly judge the defendant on the basis of all the evidence. The Government submits that if you carefully consider the evidence that will be before you and if you abide by your oath to judge the defendant on the basis of the evidence and in light of the law as his Honor will instruct you, that you will find the defendant guilty as charged.

Thank you.

THE COURT: Mr. O'Rourke.

MR. O'ROURKE: May it please the Court, Mr. Kaufman, ladies and gentlemen.

The defendant, Mr. Suey Wing NG, has denied his guilt. At the conclusion of the Government's case he himself will take the stand and again assert his complete innocence. You will learn from his testimony and the testimony of some others that Mr. NG is 49 years of age, he is an American citizen, having been a resident of the United States for the past six years. You will learn that when he first arrived here, he worked in a wet washing laundry in the Bronx and thereafter and up until the present date he operated a grocery and a laundry almost literally a stone's throw from this courthouse. You will learn that he has never been arrested and that he has never been convicted of any crime. You will learn that he has an enviable reputation in his community. Character witnesses will come here and so testify.

You will also learn that Lam Kin Sang, who apparently will be the Government's sole witness, was known to Mr. NG as the operator or manager of a gambling establishment that was conducted next to Mr. NG's legitimate grocery and laundry business on Bayard Street.

You will learn from time to time that Mr. Lam

Kin Sang had occasion to borrow money from Mr. NG, small amounts of money, and there came an occasion when Mr. NG denied any further advances to Mr. Lam Kin Sang.

You will also learn that Mr. Lam Kin Sang is currently serving a lengthy prison term and in the great deal of time passed while he was serving that term before he gave any information to the authorities implicating this defendant. We will urge upon you, particularly during cross-examination and in summation, that the motives of Mr. Sang, the motives of Mr. Sang in coming here and testifying against Mr. NG is primarily based upon his prior failure to borrow money from Mr. NG at a crucial time in Mr. Sang's life and also from his very real desire to have his current prison term reduced.

Again I state that Mr. NG has asserted his innocence and he will take the stand and so testify.

I ask you to keep an open mind and not to come to any decision until all the evidence is in and I am sure that if you do this you will have no difficulty in finding much in the way of reasonable doubt and you will vote to acquit the defendant.

Thank you very much.

(Case called.)

(A jury of 12, and two alternates were duly impaneled and sworn.)

(An opening statement was made by Mr. Kaufman, Assistant United States Attorney.)

(An opening statement was made by Mr. O'Rourke, attorney for the defendant.)

xx L A U R A H O, Official Chinese Interpreter, having been first duly sworn by the Clerk of the Court, interpreted the testimony as follows:

xx L A M K I N S AN G, called as a witness by the Government, having been first duly sworn, through the Official Chinese Interpreter, testified as follows:

THE COURT: Madam Interpreter, have you talked with the witness just now and do you understand him and does he understand you?

THE INTERPRETER: I haven't spoken to him just now, but we have seen each other before.

THE COURT: You have conversed with him previously?

THE INTERPRETER: Yes.

THE COURT: What dialect do you talk?

THE INTERPRETER: We use Cantonese.

THE COURT: And you understand one another?

THE INTERPRETER: Oh, yes.

rge 2 Lam-- direct

THE CLERK: Could we have the witness' name, please.

THE WINTESS: My name is Lam Kin Sang.

THE CLERK: Could you spell that, please.

THE WITNESS: L-a-m K-i-n S-a-n-g.

THE COURT: Sit back, please, and speak out in a loud tone of voice and answer to every question put to you.

MR. KAUFMAN: May I proceed, your Honor?

THE COURT: Yes.

xx DIRECT EXAMINATION

BY MR. KAUFMAN:

Q Am I correct in addressing you as Mr. Lam?

A Yes.

Q Mr. Lam, speak up loud enough so that the defendant can hear you so he can understand you in Chinese.

Do you understand that?

A Yes.

Q Mr. Lam, how old are you?

A 35.

Q Mr. Lam, you are going to have to pretend that you are talking to me so that we can all hear you back here.

Where were you born?

A China.

Q How long did you live in China?

A Until I was 10 years old.

Q Where did you go from China?

A To Hong Kong.

Q Did there come a time when you came to the United States?

A Yes.

Q What year was that?

THE COURT: You are not speaking out, Mr. Witness. Speak out loud as if you are talking to the lawyer who is questioning you. Don't answer looking at the interpreter, that's the problem here.

Q I think the question was what year did you come to the United States?

A 1967.

Q Are you an American citizen?

A No.

Q What is your immigration status, if you know?

A I have a green card status.

Q Does that mean that you are a permanent resident of this country?

A Yes.

Q Have you ever been known by any other names or nickname?

rge 4 Lam - direct

A Some people call me Lam Ping. Sometimes they call me Chis Lam.

Q The first nickname was Lam Ping, P-i-n-g, is that right?

A Yes.

Q Mr. Lam, do you understand a little bit of English?

A Yes.

Q Do you understand enough to understand everything that I am saying in English?

A No. That's not possible.

Q What dialect in Chinese are you now speaking?

A Cantonese.

Q Do you speak any other dialect?

A Toishan dialect.

Q Have you ever been charged as a defendant in any indictment?

A Yes.

Q What crime where you charged with in that indictment?

A With regard to heroin.

Q In what court where you charged?

A At the Federal Court.

Q In this building?

rge 5 Lam - direct

A Yes.

Q Were you convicted of violating the Federal Narcotics Laws?

A Yes.

Q Were you sentenced upon that conviction?

A Yes.

Q What sentence did you receive?

A 15 years.

Q Do you recall when you were sentenced?

A February of 1973.

Q Are you currently serving that sentence?

A Yes.

Q Did you or your attorney make a motion to reduce that sentence?

A Yes.

Q Is it your understanding that that motion was denied by the Judge who had sentenced you?

A Yes.

THE INTERPRETER: What he said was repeating what I asked him to make sure that he understood the question.

Q Is it your intention to renew that motion to reduce your sentence?

A Yes.

Q Is it your understanding that the Government will inform the Judge of the extent of your cooperation?

A Yes.

Q Is it also your unde.standing that the Government will do the same thing in the event that any inquiry is made by the United States Parole Board concerning your eligibility for parole?

A Yes.

Q Have any other promises been made to you in return for your testifying for the Government?

A No.

Q Mr. Lam, when did you first become involved with heroin trafficking?

A 1970 or '71.

Q Did you start selling heroin then?

A Yes.

Q Did there come a time when you met a person whom you knew as Ah Suey in New York?

A Yes.

Q Was he known by any other name or any surname that you knew of?

A I heard that his surname is Ng.

Q Is that N-g?

THE INTERPRETER: The Chinese pronounce "Ng"

rge 7 Lam - direct

ng.

Q About when did you meet Ah Suey in New York?

A October of 1972.

Q Had you known Ah Suey before October of 1972?

A Yes, I had.

Q How had you known him before that date?

A I had tea with him way back in 1960. That's when we knew each other.

Q Where was that?

A In Hong Kong.

Q Were you good friends with Ah Suey in Hong Kong?

A No.

Q Describe the relationship that you had with him in Hong Kong.

MR. O'ROUKE: Your Honor, I have to object. It's vague and I don't understand the question.

THE COURT: He said he met him in 1960 in Hong Kong and he had tea with him. He wants to know the relationship. I will allow that as background material.

A It was a very casual acquaintence. We had tea or coffee in the coffee shop and we met.

Q On one occasion or more than one occasion?

A Oh, about once.

rge 8 Lam - direct

Q How did you happen to meet Ah Suey in New York in October of'72?

A At that time I was working as a waiter at the restaurant called Tong Kong. I saw him.

Q Mr. Lam, does this restaurant have different pronunciations, does the name of it have different pronunciations depending upon the dialect being spoken?

A Yes.

Q In Toishan what is the name of this restaurant?

A Hong Kong.

Q And in Cantonese what is the name of it?

A Tong Kong.

Q How long had you been working in this restaurant as of October of 1972?

A Not very long.

Q Do you remember the address of the restaurant?

A Number 30 Pell Street.

Q What work did you do at this restaurant?

A I was a waiter.

Q Tell us what happened on this day in October of 1972 when you saw Ah Suey?

A About dinner time he came into the restaurant. I saw him.

Q Was he by himself or was he with other people?

A Several people.

Q Do you know who the other people were?

A I don't know them.

Q Tell us what happened from the moment you first saw him?

A We saw each other and we walk off to a spot in the restaurant that is less crowded and we had conversation.

Q Please tell us what that conversation was, what you said and what Ah Suey said.

A We greeted each other with hellos and asked about each other's health.

I don't remember whether I asked him to go with me to this empty spot or he asked me to go to this empty spot.

Q Is that this emptier spot, is that what you are saying?

A Emptier spot in the restaurant.

Q Continue with the whole conversation.

A He told me, "I have a pound and a half of the crystal heroin" and he asked me to look for somebody to buy it from him.

Q What did you say?

A I asked what is the price?

Q What did Ah Suey say?

A He said 11,500.

THE COURT: 11,500 what?

THE INTERPRETER: Dollars, your Honor.

MR. O'ROUKE: Your Honor, the interpreter is having difficulty in hearing the witness.

THE COURT: Please speak up. The trouble is you are standing aside him and he is answering you. I think if you stood along side where counsel is standing, he would probably speak up.

Mr. Witness, speak up as if you are addressing the person who is furtherest in the courtroom. Do you understand that?

Loud.

MR. KAUFMAN: Your Honor, I think it would be better if Mrs. Ho came back here.

THE COURT: Yes, why don't you stand alongside him and you speak up in a loud voice, too.

What is the location of the Hong Kong Restaurant?

THE WITNESS: Number 30 Pell Street.

THE COURT: New York City?

THE INTERPRETER: New York City, yes.

Q I believe you just told us what the price was that Ah Suey quoted. Tell us what that price was again,

rge 11 Lam - direct

please.

A $11,500.

Q Did he mention what quantity of heroin was involved?

A One and a half pounds altogether.

Q What did you say when Ah Suey asked you if you could find a customer for this heroin?

A I promised to look for somebody.

Q Did you have any further conversation with Ah Suey on that day?

A Yes.

Q Tell us about that conversation?

A I said I would try and look for somebody. In either event, if you have already found someone to sell to, please let me know.

MR. O'ROUKE: Your Honor, Mr. Kaufman said he referred to that day. Unless I missed it, no specific date has been given by the witness.

May we fix a date first?

THE COURT: Please.

Q Mr. Lam, do you have any idea what day in October this occurred?

A I don't remember the exact date.

THE COURT: Read the answer to the last ques-

tion, Mr. Reporter.

(Record read.)

THE COURT: Who said 'in either event if you found someone to sell to, to please let me know?"

THE INTERPRETER: I didn't hear what your Honor said. Who made that statement?

THE COURT: Yes.

THE WITNESS: I told Ah Suey if you have found someone to buy it, let me know.

Q Was there any further conversation?

A He gave me the telephone number.

Q What telephone number was that?

A That number belongs to a volley ball club.

Q Do you know the name of that volley ball club?

A Wun Fung.

Q Did Ah Suey say anything about that volley ball club?

A If you call me in the evening, I usually will be there.

Q Is that what Ah Suey said to you?

A Yes.

Q This man that you had the conversation with, the man you knew as Ah Suey, do you see him here in the courtroom today?

A Yes.

Q Can you please indicate where he is?

A (Indicating).

Q At which table is he seated?

A The table that has three persons.

Q And at which end of the table is he seated?

MR. KAUFMAN: May the record reflect that he is indicating the end of the table near the windows, your Honor?

THE COURT: Yes.

MR. KAUFMAN: And may the record indicate he has indicated the defendant Suey Wing Ng?

MR. O'ROUKE: Conceded.

Q As of October 1972, when you had this conversation with Ah Suey, how long had you been involved in the heroin business?

A About two years.

Q When Ah Suey asked you to find a customer for his heroin, did you have anybody in mind?

A Yes.

Q Who is that?

A The two Chan brothers, Chan Yuk Shui and Chan Yuk Wo.

Q Who were the Chan brothers?

rke 14 Lam - direct

A They were my former partners.

Q Partners in what?

A In dealings in heroin.

Q What happened after your meeting with Ah Suey?

A Shortly after I saw the two Chan brothers when they came to look for me in the restaurant.

Q And did you have a conversation with the Chan brothers?

A Yes.

Q Tell us what that conversation was?

A Prior to that the Chan brothers had asked me to be on the lookout for goods for them to sell.

Q When you say "goods" what are you referring to?

THE INTERPRETER: May I ask him again what he means by the word for?

THE COURT: Madam Interpreter, instead of turning to Mr. Kaufman when you are answering, please direct your remarks to the jury and everybody can hear you then.

THE INTERPRETER: Yes, your Honor.

A It is heroin.

Q So continue with the heroin that you had with the Chan brothers, please.

A The Chan brothers told me to look for some heroin for them to sell so they can make some money to pay their

lawyer's fee.

Q After you had the conversation with Ah Suey, did you then meet with the Chan brothers?

A Yes.

Q Tell us about that conversation?

A I told them that I have available rock heroin and the price is 11,500.

Q Did you tell them how much rock heroin you had?

A I said one and a half pounds.

Q When you say "rock heroin", what do you mean by the term "rock heroin"?

A The heroin in the form of little brown crystals.

Q How did you know that it was rock heroin?

A Because that's what he told me.

Q When you say "he", who do you refer to?

A Ah Suey.

Q What did the Chan brothers say after you told them this?

A They said "Fine, keep that for me and give me time to go and look for somebody to buy it."

Q Did there come a time when you had learned that the Chan brothers had found a customer for that heroin?

A Yes.

Q How did you learn this?

rke 16 Lam - direct

A We see each other all the time.

Q What did they tell you?

A They said "We have found a customer, but the money would have to be paid later."

Q When was this conversation in relation to the first conversation that you had with the Chan brothers when you told them about the availability of the heroin?

A Two, three days.

Q Did there come a time when you learned that the Chan brothers had the money?

A Yes.

Q When was this?

A In the evening they brought me the money.

Q About how many days after they told you that they had located a customer?

A About three days.

Q Had you spoken to Ah Suey during these intervening few days?

A No.

Q Now, you say that the Chan brothers brought the money to you, is that right?

MR. O'ROUKE: I will object to the leading form of the question, your Honor.

THE COURT: Yes, avoid leading, please.

rke 17 Lam - direct

Q Where did the Chan brothers bring the money to you?

A They brought it to the Hong Gong Restaurant.

Q What happened when they arrived at the restaurant?

A They had the money in a paper bag. They brought it to me.

Q Which of the Chan brothers was carrying the brown paper bag, if you remember?

A Chan Yuk Wo.

Q What did you do after he gave you this bag?

A I brought it into the men's room and counted it there.

Q How much money was there?

A $11,500.

Q What did you do after you counted the money?

A I made a telephone call to Ah Suey.

THE COURT: To whom?

THE INTERPRETER: Ah Suey.

THE COURT: Are you referring to the defendant?

THE INTERPRETER: Yes.

THE COURT: I am asking the witness. Please don't answer. The man on trial?

THE WITNESS: Yes.

rke 18 Lam - direct

THE COURT: I think you ought to attempt to clarify matters, Mr. Kaufman.

MR. KAUFMAN: I thought I had, your Honor, but I will do it again.

THE COURT: He dropped his voice and the interpreter dropped her voice and that's why I asked the question.

MR. KAUFMAN: I will do it again.

Q Mr. Lam, what is the name that you know the defendant by, the person you have previously identified?

A Ah Suey.

Q When you use the name "Ah Suey" during this trial, you are referring to the defendant, is that right?

A Yes.

Q Now, you say you called him after you counted the money, is that right?

A Yes.

Q Where did you call from?

A I made the telephone call at the public phone in the restaurant.

Q What number did you call?

A I used the telephone number that he gave me.

Q Did you reach Ah Suey at that number?

A Yes.

Q Do you recall if he answered the phone?

A Yes, he answered the telephone.

Q Did you have a conversation with Ah Suey?

A Yes.

Q Tell us what that conversation was, everything that you said and everything that he said.

MR. O'ROUKE: Your Honor, may I interpret at this point and interpose an objection that no foundation has been laid with respect to any prior telephone calls that this may have had with somebody. As it stands now, this witness was speaking to a voice and the Assistant refers to --

THE COURT: Let's not spend time on it. Put the questions to him.

You say you talked to a man Ah Suey.

Did you recognize the voice of the man that you telephoned to?

THE WITNESS: He said I am Ah Suey.

THE COURT: And did you recognize him to be the man who you knew as Ah Suey or recognize his voice as the voice of the man to whom you had talked previously to as Ah Suey?

THE WITNESS: Yes.

Q Can you tell us what conversation you had on the

occasion of this telephone call?

A I said I have collected the money. When can I get the heroin.

Q What did Ah Suey say?

A I will fix a time.

Q Tell us about the whole conversation.

A He said about 10 o'clock you come to the head of the stairway at the volly ball club and get the heroin.

THE COURT: What's the name of that club?

THE INTERPRETER: The volley ball club.

THE COURT: All right, proceed, Mr. Kaufman.

Q Did Ah Suey say exactly where the heroin would be?

A He said on the third floor in the corner of the stairway.

Q Did you have any conversation with him with respect to the money?

A I told him a little later in the evening come to the restaurant to get the money.

Q What happened after this telephone call?

A The Chan brothers and I stayed in the restaurant and we stayed by the bar until it was almost time to go and then we went over to the club.

Q On what street was this club?

A Canal.

Q Is that here in New York City?

A Yes.

Q In Manhattan?

A Yes.

Q Do you recall the address on Canal Street?

A 179.

Q How do you recall that as being the address of the club?

A At first I didn't remember the number, but I passed there all the time.

Q Have you passed there recently?

A Yes.

Q When was this?

A Last week or so.

Q How did you happen to be on Canal Street?

A The FBI took me.

Q An agent took you?

A Yes.

Q Did you identify the building that contained this volly ball club?

A Yes.

Q Did you recognize it from 1972, the period that we are talking about?

A Yes.

Q Now, what happened when you and the Chan brothers got to that building?

A When we got there I waited with the older brother down on the street, and he went up to get it.

Q Who went up to get it?

A Chan Yuk Wo.

Q How did Chan Yuk Wo know where to go?

A I told him to go up to the third floor at the corner of the stairway to get that.

Q How long was Chan Yuk Wo in that building?

A He just went up and came down.

Q Did Chan Yuk Wo have anything in his possession when he came out of that building?

A Yes.

Q What did he have?

MR. O'ROUKE: I will object to that, your Honor, "what did he have".

THE COURT: If he knows.

MR. O'ROUKE: Yes.

Q If you know, what did he have in his possession when he came out?

A I saw a paper package.

THE INTERPRETER: The size that he indicated.

A About like that.

Q About a foot high?

A A paper bag about that size? (Indicating).

Q Did you see what was inside that paper bag?

A No.

Q Did Chan Yuk Wo have that bag before he went into the building?

A No.

Q Okay, what happened after Chan Yuk Wo came out of the building?

A The two brothers went their way and I went back to the restaurant.

Q And what happened after you went back to the restaurant?

A I waited for Ah Suey to come and get the money.

Q Did Ah Suey eventually show up at the restaurant?

A Yes.

Q What happened when he arrived at the restaurant?

A When I saw him I indicated for him to go into the men's room and I gave him the money there.

Q Both you and Ah Suey went into the mens room, is that right?

A Yes.

Q Where had you had the money before you gave it to

rge 24 Lam - direct

Ah Suey?

A I was holding it in my hands.

Q What happened after you gave the money to Ah Suey?

A I asked him to count it.

Q Did he count it?

A I don't know if he had counted it.

Q What happened after that?

A I left, I came out and then he went his way.

Q Did you have any conversation with him just before he left?

A I think I said if you have some more next time--

MR. O'ROUKE: Your Honor, I will object to what he thinks.

THE COURT: Yes. Objection sustained.

What is your best recollection as to what conversation you had with him on that occasion?

A I said count the money and next time if you have some more for sale, come to look for me.

Q What did Ah Suey say?

A He said, "Okay."

Q Did you see the Chan brothers after that?

A Yes.

Q Where did you see them?

A At the restaurant.

Q And when was this?

A It could be the same night or the following night.

Q Did you have a conversation with them?

A Yes.

Q Tell us about that conversation.

A I said "How is the heroin? They said, "Okay."

Q Did you see the defendant again after you gave him the money?

A Yes.

Q When, approximately, was the next time that you saw him?

A About one or two weeks.

Q Approximately what month was it?

A November.

Q Where did you see him on this occasion?

A At the Gambling Club.

Q Now, what do you mean by "The Gambling Club?"

A The number 83 Bayard Street Gambling Place.

Q Whose gambling place was this?

A It belonged to me and Chan Bik Kong.

Q When had you opened this gambling club?

A About November.

rge 26 Lam - direct

Q So it had just been opened at that time you saw Ah Suey, is that right?

A Yes.

Q After you opened this gambling club, did you continue to work at the Hong Kong Restaurant?

A Yes.

Q Did people at the restaurant know about your gambling club?

A Yes, they knew.

Q How did they know?

A I told them.

Q What eventually happened to this gambling club?

A The police came and raided and closed the place.

Q And about when was that?

A It was open for eight weeks.

Q Now, do you recall about what time of day or night it was that Ah Suey came to your gambling club on this first occasion?

A Not long after I opened it.

Q No, I said about what time of day or night was it.

A In the evening.

Q And what happened when Ah Suey came to your gambling club?

rge 27 Lam - direct

A He told me he has a pound and a half of heroin for sale and asked me to look for somebody to buy it.

Q What did you say?

A I asked is the price the same like before?

Q What did he say?

A He said yes.

Q What was that price?

A $11,500 for a pound and a half.

Q Did you agree to look for a customer?

A Yes.

Q Did you have any further conversation with Ah Suey at that time?

A I said in case if you had sold it in the mean-time please let me know.

Q Did you find a customer for that heroin?

A Yes.

Q Who was that customer?

A Ah Dau.

Q How did you happen to find Ah Dau as a customer?

A Ah Dau came to my gambling place. I do not recall whether I approached him or he asked me.

Q When was this in relation to Ah Suey having come to your gambling club?

A Very short time.

rge 28 Lam - direct

Q Tell us about the conversation that you had with Ah Dau?

A I told him I have pound and a half of heroin. The price will be 16,500.

Q What did Ah Dau say to that?

A He said save it for me. I will look for somebody to buy it.

THE COURT: I think this may be a good point at which to take our luncheon recess.

Members of the jury, we will take our luncheon recess now and I ask you to please be inside so we can start at 2 o'clock.

(Luncheon recess.)

AFTERNOON SESSION

2:00 p.m.

L A M K I N S A N G, resumed.

MR. KAUFMAN: May I proceed, your Honor?

THE COURT: Please.

CONTINUED DIRECT EXAMINATION

BY MR. KAUFMAN:

Q Mr. Lam, I believe when we adjourned for lunch you were talking about a conversation you had had with Ah Dau, about him being a customer for the heroin.

A Yes.

Q Now, had you done business with Ah Dau before?

A Yes.

Q When was that?

A July.

Q Of 1972?

A Yes.

Q Did you sell heroin to him in July of 1972?

A Yes.

Q By the way, was that heroin from Ah Suey?

A No.

Q Do you know if Ah Dau was this individual's real name?

A I don't know.

Q Did you ever know him by any other name?

A I just called him Ah Dau.

Q When you and Ah Dau had this conversation in November of 1972, what was the price mentioned for the heroin?

A I told him that it would be 16,500 for the pound and a half.

Q Now, that was $5,000 more than you sold the heroin to the Chan brothers for?

A Yes.

Q What was going to happen to this additional $5,000?

A That's for myself.

Q Did you make any money out of the first transaction with the Chan brothers?

A No.

Q Did Ah Dau agree to the price of $16,500?

A Yes, he agreed.

Q What arrangement did you make with him for the payment of that money?

A I told him if you get the money together then I will give you the heroin.

Q Did there come a time when Ah Dau got the money together?

A Yes.

Q And when was this?

A In a few days.

Q And what happened?

A After he gave me the money I counted and then I put it into the safe.

Q How much money did Ah Dau give you?

A 16,500.

Q What happened after he gave you the money?

A After I counted the money --

THE INTERPRETER: Excuse me, I didn't hear the last word, whom he called?

A After I counted the money I called Ah Suey.

Q Where were you when you called Ah Suey?

A At the gambling house.

Q Where specifically in the gambling club?

A In the small room inside.

Q Is that where the safe was where you had put the money?

A Yes.

Q Was that room private or was it open to the public, the gambling room?

A Anybody can go in there.

Q What telephone number did you call to get Ah Suey?

rge 32 Lam - direct

A The number that he gave me originally.

Q Was this the same number you had called on a previously occasion?

A Yes.

Q Did you reach Ah Suey at that number?

A Yes.

Q Did you have a conversation with Ah Suey?

A Yes.

Q Tell us about that conversation, everything that you said and everything that he said.

A After I reached him by phone I told him that I have gotten the money and I want to know when I can have the goods delivered.

Q And what did Ah Suey say?

A He gave me an appointed time. He said about 10 o'clock in the evening come to the third floor to get it.

Q The third floor, what location?

A The volly ball club, third floor.

Q Is that the place where you were calling him?

A Yes.

Q Was there any other conversation with Ah Suey at that time?

A I just said I have collected the money, when can

I have the goods.

Q What did you do after that telephone call?

A I waited with Ah Dau at the gambling place till about time to go, then we went over to the club.

Q What building was it you went to?

A The 179 Canal Street building.

Q Is that the same building you had previously gone to with the Chan brothers?

A Yes.

Q What happened when you got to 179 Canal Street on this occasion?

A I told him to go upstairs to the third floor and get the package.

Q Then what happened?

A After he bought it down then he went his way and I went mine.

Q How long was Ah Dau in the building?

A He just went up and came down.

Q What, if anything, did he have with him when he came out of the building?

A He had the package.

Q Did you see what was inside the package?

A No.

Q What happened after that?

A I went back to the gambling club and waited for him to come and get the money.

Q Did Ah Suey arrive at the club that night?

A Yes.

Q How long was it after you returned to the gambling club that he arrived?

A About an hour.

Q What happened when Ah Suey got to your gambling club?

A I brought him into that little room and I gave him the money.

Q How much money did you give him?

A 11,500.

Q Did you keep the remaining $5,000?

A Yes.

Q What happened after you gave Ah Suey the $11,500?

A After I gave him the money I asked him to count it and then he left.

Q Did he count the money, do you remember?

A I didn't pay attention.

Q Did you see Ah Dau after that?

A Yes.

Q When was that?

A Very shortly.

Q Where did you see him?

A At the gambling house.

Q Did you have a conversation with Ah Dau?

A Yes.

Q Tell us about the conversation.

A I asked him "Is the goods correct" and he said, "Yes."

Q When you say "goods," what are you referring to?

A The drug, the heroin.

Q After that transaction, did you see Ah Suey again?

A Yes.

Q When was the next time?

A About a week later.

Q Do you recall approximately what month it is?

A November?

Q When did you see Ah Suey on this occasion?

A He came to look for me at the gambling place.

Q Did you have a conversation with Ah Suey?

A Yes.

Q Tell us about the conversation?

A He said he has a pound and a half.

"Can you help me sell it?"

Q What did you say?

A I promised to sell it.

Q What arrangements did you make with Ah Suey with respect to this lot of heroin?

A Ah Suey came to look for me in the gambling

place. I did not recall whether I initiated the conversation or he spoke to me first.

Q What arrangements did you make with Ah Suey concerning this heroin? That's the question.

A I told him after I get the money I will let you know and then come to get the heroin.

Q Did you have any discussion with Ah Suey about the price for this pound and a half of heroin?

A Yes.

Q What was that discussion.

A The price is 11,500.

Q Did you find a buyer for this pound and a half of heroin?

A Yes.

Q Who was that?

A Ah Dau.

Q Is that the same person who had bought the previous one and a half pounds of heroin?

A Yes.

Q How did it come about that you found Ah Dau to by this lot of heroin?

A He came to look for me at the gambling house.

Q Did you have a conversation with him?

A Yes.

Q Tell us about that conversation?

A I told him I have a pound and a half of heroin. The price is 16,500. "Do you want it?"

Q What did Ah Dau say?

A He said, yes, he wanted it.

Q That was the same price you had asked him on the earlier transaction, is that right?

A Yes.

Q You were going to make the same $5,000 profit, is that right?

A Yes.

Q Did there come a time when Ah Dau brought you the money?

A Yes.

Q When was that?

A In the evening.

Q How many days after you first told Ah Dau that the heroin was available?

MR. O'ROURKE: In view of the fact that Mr. Kaufman mentioned day, could we have the witness fix the specific date, if he knows it?

MR. KAUFMAN: Can the witness first answer this question?

THE COURT: Yes.

(Record read.)

A A few days later.

Q Do you have any recollectionas to the exact date?

THE COURT: Exact or approximate date?

Q Exact or approximate date.

A Two or three days later.

THE COURT: When do you say this occurred?

THE WITNESS: In November.

THE COURT: November, 1972?

THE WITNESS: Yes.

Q With respect to any of the occurrences you have testified to or will testify about, Mr. Lam, can you recall the exact dates involved?

A I do not recall exactly.

Q Where did Ah Dau bring the money?

A He brought the money to the gambling house.

Q What happened when Ah Dau arrived at the gambling house?

A He had the bag of money with him. He gave it to me and I made the telephone call.

Q Where in the gambling club did this occur?

A In the small room.

Q Did you count the money?

A Yes.

Q How much money was there?

A $16,500.

Q What did you do with the money after you counted it.

A I divided them into two lots, one is 11,500, the other is 5,000, and then I put them in the safe.

Q Then what did you do?

A I telephoned Ah Suey.

Q Where did you telephone him?

A To the volly ball club.

Q Did you reach him there?

A Yes.

Q Did you have a conversation with him?

A I told him I have collected the money. When can I have the heroin.

Q What did Ah Suey say?

A He gave me the appointed hour of 10 o'clock at night, approximately, and on the third floor stairway to go and get the package.

Q Is that the same location he had given you on the two prior transactions?

A Yes.

Q After that telephone call, what did you do?

A I waited at the gambling club with Ah Suey until it was almost time to go and then we went over there.

Q What happened when you got to that building?

A I waited downstairs. I asked him to go up to get the package.

Q How long was Ah Dau in the building?

A He went up and came down.

Q Did he have anything with him when he came out of the building?

A Yes.

Q What did he have?

A A package of the size he indicated?

Q Did you see what was inside the package?

A No.

Q What happened then?

A After he came down, he went his way and I went back to the gambling place.

Q What happened after you returned to your gambling club?

A Ah Suey came to get the money.

Q What happened when Ah Suey arrived at your gambling club?

A I took him inside to the little room and I gave him the money.

Q How much money did you give him?

A $11,500.

Q What did Ah Suey do?

A After I gave it to him I asked him to count it and then I left the room.

Q Do you know whether he counted it?

A I don't know.

Q Did you ever tell Ah Suey what price you were selling the heroin for?

A No.

Q Did you speak to or see Ah Suey soon after that night?

A Yes.

Q When did you see him?

A About one evening later.

Q Where did you see him?

A At the gambling house.

Q Did you have a conversation with him at that time?

A Yes.

Q What did he say and what did you say?

A He said there was an extra pound and a half there. I said "Could you have made a mistake?"

I asked him to go back and check with himself

and see whether there was a mistake.

Later, when I saw Ah Dau, I asked him "Wasn't that package more than you should have?" And he said, "No."

Q Let me break in for a second.

When you say that Ah Suey told you there was an extra package, what was he referring to?

A I said that I don't trust people therefore, I always ask for themoney first.

Q You didn't answer my question.

You said that Ah Suey told you the night after the transaction with Ah Dau that there had been an extra package.

I want you to be more specific of what exactly did Ah Suey tell you that next night?

A He said there was an extra pound and a half of heroin.

THE COURT: Did he say where there was an extra pound and a half of heroin?

A He said the package that was put on the stairway the night before had a pound and a half more than it should.

Q When Ah Suey told you that, what did you say?

A I promised to make an inquiry and see what hap-

pened?

Q Did you make an inquiry?

A I saw Ah Dau later.

Q Ah Dau was the person who got that package the night before, is that right?

A Yes.

Q What conversation did you have with Ah Dau?

A I said, "Ah Dau, isn't there more than what you should have in the package?"

And he said, "No."

THE COURT: After you had this conversation, did you speak to Ah Suey, the defendant, and report to him?

THE WITNESS: Yes.

THE COURT: What did you say to him?

THE WITNESS: I told him the person who received the package said there was no extra amount.

Q What did Ah Suey say when you told him that?

A He said then there is nothing I can do about it.

Q Did you know of your own personal knowledge whether or not there was one and a half pounds or three pounds in that package that Ah Dau received?

A I do not know.

Q Did anything happen to Ah Dau soon after that?

MR. O'ROURKE: Objection. Vague. I don't

understand the question.

THE COURT: I agree with that. It is not clear.

MR. KAUFMAN: I'll withdraw it, your Honor.

Q Did you see Ah Suey again after that?

A Yes.

Q When was this, approximately?

A About a week later.

Q Did you have a conversation with Ah Suey?

A Yes.

Q Tell us about that conversation.

A He said he has another pound and a half and would like me to look for somebody to buy it.

Q Did you have a discussion with Ah Suey about the price?

A Yes.

Q Tell us about that conversation.

A The price is 11,500.

Q Did you find a customer for that pound and a half of heroin?

A Yes.

Q Who was that customer?

A Ja B Lam.

Q How did you happen to find Ja B Lam as a customer?

A I do not recall exactly whether I met him on the

stree or I saw him in the gambling house.

Q When did you see him in relation to your having spoken to the defendant, Ah Suey?

A About an evening later.

Q What conversation did you have with Ja B Lam?

A I told him "There is available a pound and a half of crystal heroin and the price is 16,500. Do you want it?"

And he said, "Yes."

Q Did he bring the money to you?

A The following evening he brought the money.

Q Where was that?

A At the gambling house.

Q Did you have any conversation with Ja B Lam when he brought you the money?

A Ja B Lam gave me the money and then he said, "I will send somebody by the name of Suey Nom to come and get the heroin."

Q Is that Suey Nom?

A Yes.

Q How much money did Ja B Lam give you?

A $16,500.

Q What did you do after Ja B Lam gave you the money?

A I telephoned to Ah Suey.

Q Where did you telephone?

A To the volly ball club.

Q This is the same place that you had called on all the prior occasions, is that right?

A Yes.

Q Did you reach him there?

A Yes. I found him.

Q Did you have a conversation with him?

A I asked him when can I have the thing -- the goods. He said, "We will fix the time."

Q And did you fix a time?

A In the evening. I don't recall the exact hour.

Q Where was the deliver supposed to take place?

A At the third floor of the volley ball club by the stairway.

Q The same location as before?

A Yes.

Q What happened after that telephone call?

A Suey Nom came to the gambling house to wait with me when it was time to go we went to the club together.

THE COURT: Who went to the club together?

THE WITNESS: Suey Nom and myself.

THE COURT: Suey Nom?

THE INTERPRETER: Yes.

THE COURT: That was the man who said he would meet you to pick up the heroin?

THE WITNESS: Yes.

Q To what location did you and Suey Nom go?

A We went to the volley ball club.

Q What happened there?

A I waited on the street and Suey Nom went upstairs to get it.

Q And how long was he in the building?

A He went up and came down.

Q Did he have anything with him when he came out of the building?

A Yes.

Q What did he have?

A He had a package.

Q Did you see what was inside the package?

A No.

Q What happened when he came out of the building?

A He went his way and I went back to the gambling room.

Q What happened back at the gambling house?

A I waited for Ah Suey to come and pick up the money.

Q Did he arrive at the gambling house?

A Yes.

Q And what happened when he arrived?

A After he arrived I took him into the little room and I gave him the $11,500.

Q Did you keep the remaining $5,000?

A Yes.

Q Did you see Ja B Lam or Suey Nom after that night?

A Yes.

Q When did you see one or the other?

A The following night I saw Ja B Lam.

Q Where was that?

A I do not remember exactly whether it was on the street or at the gambling house.

Q Did you have a conversation with Ja B Lam?

A Yes.

Q And what was that conversation?

A I asked him how is the goods.

Q And what did Ja B Lam say?

A He said that's fine.

Q Did you see Ah Suey again?

A Yes.

Q When was the next time?

A About a week later.

Q Do you recall approximately what month this was?

A December.

Q Of 1972?

A Yes.

Q And where did you see him?

A At the gambling house.

Q Did you have a conversation with Ah Suey?

A Yes.

Q Tell us about that conversation?

A He said I have another pound and a half of heroin. I said all right, I will look for somebody to buy it.

He said, I will come to see you tomorrow.

Q Did you discuss the price of the heroin with Ah Suey?

A No.

Q Why not?

A I already knew the former price.

Q Did Ah Suey come to see you the next day?

A Yes.

Q Approximately what time, do you recall?

A In the evening.

Q In the gambling house.

Q And what conversation did you have with him on this occasion?

A He gave me the pound and a half.

Q Tell us what happened from the moment he came into the gambling house.

A He brought the heroin to my club. I brought him inside the little room and I said, I have not been able to find a buyer yet.

Q Now, you say he brought the heroin with him? What exactly was he carrying?

A The one and a half pounds of crystal heroin.

Q Was it contained in anything?

A A paper bag.

Q What did Ah Suey say when you told him you had not found a customer yet?

A He said I have no place to put it.

Q Did you agree to hold on to it?

MR. O'ROURKE: I will object to the leading form of the question, your Honor.

THE COURT: Yes, please don't lead.

When he said he had no place to put it did you have any further discussion with him about the heroin?

THE WITNESS: I agreed to take over the heroin and put it in a corner in the little room.

Q And is that where you put the heroin?

MR. O'ROURKE: Objection to the leading form

of the question, your Honor.

THE COURT: Put the question again.

MR. KAUFMAN: I asked him where he put it, your Honor. I didn't suggest an answer to him.

THE COURT: You made a statement. You didn't put a question to him.

MR. KAUFMAN: I will rephrase it.

Q What did you do with the heroin?

A I first put it in the little room. I moved it to the mens room and then I brought it back to the little room again.

Q Why did you move it around like that?

A I just felt very ill at ease.

Q Did you look inside the package that Ah Suey gave you?

MR. O'ROURKE: I object to the leading form of the question, your Honor.

THE COURT: Yes, please don't lead. You can put the question without leading the witness.

When you received the package from the defendant Ah Suey, did you do anything with respect to the package?

THE WITNESS: I took it over from him, I looked into it and then I put it aside.

Q When you looked into it, what didyou see?

A I saw the plastic bag and the brown crystals inside.

Q When you say crystals, exactly what do you mean? What did it look like?

A It's a coarse grain thing like with coffee color, a granular thing.

Q Did you locate a customer for that heroin?

A Yes.

Q Who was that?

A Kam Shui.

Q And who is Kam Shui?

A He is one of the employees in my gambling house.

Q What conversation did you have with Kam Shui?

A I told him there is available one and a half pounds of the rock crystal heroin. Do you want it? The price is 16,500.

He said the price is too high.

Q Did you have further conversations with him?

A Then he said could you make it 14,000 and I said all right.

Q What happened after that?

A I gave the heroin to Kam Shui.

Q Where did that occur?

A In the little room.

THE COURT: The little room at what address?

THE WITNESS: The little room in the gambling house at 83 Bayard Street.

Q Did Kam Shui pay you for that heroin?

A He took the heroin first and not long after he gave me a few thousand dollars.

Q Do you remember how much he gave you?

A I don't remember.

Q Did he eventually pay the full $14,000?

A Yes.

Q When did he pay the rest of it?

A The following evening.

Q What happened after he gave you the full amount of the money?

A I telephoned to ask Ah Suey to come and get the money.

Q Where did you telephone him?

A To the volley ball club.

Q Did you reach him there?

A Yes.

Q What conversation did you have with Ah Suey?

A I told him to come and get the money.

Q Did Ah Suey come to the gambling club?

A Yes.

Q What happened when he arrived at the gambling club?

A After he arrived at the gambling house I brought him into the little room and I gave him 11,500.

Q What happened to the remaining $2500?

A That is mine.

Q What happened after you gave Ah Suey the 11,500?

A He left.

Q Did you see Ah Suey again after that?

A Yes.

Q When did you see him?

A About a week later.

Q And where did you see him?

A At the gambling house.

Q Did you have a conversation with him?

A Yes.

Q Tell us about that conversation, please.

A He said he has a pound and a half of heroin. He asked me to sell it for him.

Q Did you agree to try to sell it for him?

A Yes, I agreed.

Q Did you find a customer for that heroin?

A Yes.

Q Who was that?

A Lee Louie.

Q How did you happen to find Lee Louie as a customer?

A I do not recall exactly whether I met him on the street or I telephoned to him to ask him to meet me.

Q Did you meet with Lee Louis?

A Yes.

Q Where was that?

A At the gambling place.

Q What conversation did you have with Lee Louie?

A I told him I have one and a half pounds of crystal heroin and the price is 16,500. He said that's fine.

Q What arrangements did you make with Lee Louie for this transaction?

A The following evening he brought me $14,000.

Q Before we get into that, how did you know that Lee Louie would be a person interested in buying heroin?

A Have had dealings with him before.

Q After this conversation with Lee Louie in which you told him about the availability of the heroin, what did you do?

A He said all right.

Q And then what happened? What was the next thing

that happened?

A The following evening he brought me $14,000.

Q Did you have any conversation with him whe he brought you the $14,000?

A He said the other 2,500 I will bring you a little later.

Q What was the next thing that happened?

A I said when you are ready to take the goods he will send Fatty Man to pick it up.

Q And what happened after that?

A I gave the heroin to Fatty Man.

Q Mr. Lam, you haven't told us how you got the heroin.

A After I spoke with Ah Suey the following night, he brought me the heroin.

THE COURT: Who is he?

THE WITNESS: That's Ah Suey.

THE COURT: Ah Suey the defendant, is that right?

THE WITNESS: Yes.

Q Now, when did Ah Suey bring you the heroin in relation to when he told you that there was heroin available?

A Just one the following evening.

Q Did he bring you the heroin before or after Lee Louie gave you the $14,000?

A The time span was very short. I recall that I got the heroin first and then I talked with Lee Louie.

Q Where did Ah Suey bring the heroin?

A He brought it to the gambling place for me.

Q And what happened when Ah Suey came to your gambling place?

A He gave it to me and then he left.

Q Specifically what did he give to you?

A He gave me the pound and a half of heroin.

Q Was it contained in anything?

A In the paper bag and inside is the plastic bag.

Q What did you do with this paper bag that Ah Suey gave you?

A I put it in the little room and then I put it in the bathroom.

Q You say there where cellophane bags inside?

A Yes.

Q And what else, if anything, did you see inside?

A I saw the coffee colored granules inside.

Q And what did you do after Ah Suey gave you the heroin?

A Shortly after he left Lee Louie came over.

Q What happened when Lee Louie came over?

A He gave me the $14,000. He said the other 2,500 would be given later.

Q And after Lee Louie gave you the $14,000, what was the next thing that happened?

A He said a little later on just give the heroin to Fatty Man.

Q Did you see Fatty Man later?

A Yes.

Q And what happened?

A He came down and I gave the goods to Lee Louie and then Lee Louie took the package. Lee Louie and Fatty Man came down together. I handed the package to Lee Louie and they left together.

Q Lee Louie and Fatty Man?

A Yes.

Q Did you speak with Lee Louie after that?

A Yes.

Q When did you speak to him?

A It could be the same evening or the following evening.

Q Where did you speak to him?

A It seemed like the little room in the gambling house.

Q And what conversation did you have with Lee Louie?

A Lee Louie said it is short weighted. It is only a little over one pound.

Q And what did you say when Lee Louie told you that?

A I told Lee Louie to go and weigh it again to see actually how much.

Q What was the next thing that happened?

A He said it is short weighted. It is not enough.

Q What else, if anything, did he say?

A I said you go and weigh that again. If it is really not enough let me know.

Q Did Lee Louie then leave?

A He left.

Q And what was the next thing that happened?

A Later on Fatty Man came to tell me the heroin is only a little over one pound.

Q Lid Fatty Man say anything else?

A He said I should refund $2,000.

Q And what did you say?

A Well, when Fatty Man was in my little room I telephoned Ah Suey and told him that the weight is not enough.

THE COURT: Told who that the weight was not enough?

You telephoned whom?

THE WITNESS: Ah Suey.

Q And what did Ah Suey say when you told him that the weight was not enough?

A He said just pay for whatever there is there.

Q Did you have any other conversation with Ah Suey?

A I said would it be all right if it is $10,000 for payment?

Q And what did Ah Suey say?

A He said 10,000 is all right.

Q What happened after you had that telephone call with Ah Suey?

A Shortly after that he came down to take the money.

Q You still had $14,000, is that right?

A Yes. 12,000.

Q Lee Louie originally gave you 14,000, is that right?

A After the telephone call I returned $2,000 to Fatty Man.

Q What happened after you gave the $2,000 to Fatty Man?

A Ah Suey came to get this money.

THE COURT: How much did you give to the defendant Ah Suey in connection with that transaction?

THE WITNESS: $10,000.

Q Did you keep the remaining $2,000?

A Yes.

Q Did anything happen to your gambling house at around this time?

A Very shortly after that the police came to raid the place and closed it.

Q After this transaction that you have just told us about, did you have any further dealings with the defendant Ah Suey?

A No.

Q Did you yourself go to trial soon thereafter on your own heroin case?

A Yes.

Q When was that trial?

A February.

Q Of 1973?

A Yes.

Q That's the heroin case that you are in jail for now, is that right?

A Yes.

Q That was a heroin case unrelated to the facts that you have been testifying about here today, is that right?

MR. O'ROURKE: Objection to the form of the question, your Honor. I don't understand it.

THE COURT: Well, if the witness understands it I will allow him to answer it.

THE INTERPRETER: Would you please repeat the question.

THE COURT: The case at which you were a defendant was based on facts different from those to which you have testified here today, is that correct?

THE WITNESS: That's correct.

THE COURT: They concerned different transactions?

THE WITNESS: That's correct.

Q Since your own trial started in 1973 until this trial, have you seen Ah Suey at any time?

A I saw him once last week.

Q Except for that one occasion, did you see him on any other occasions in the last two years, approximately?

A No.

MR. KAUFMAN: May I have one moment, your Honor?

THE COURT: Yes.

(Pause.)

MR. KAUFMAN: No further questions, your Honor.

THE COURT: I think this would be a good point at which to take our mid-afternoon recess and then, Mr. O'Rourke, you may commence your cross examination.

(Recess.)

xx CROSS EXAMINATION

BY MR. O'ROURKE:

Q Mr. Lam, would you speak up so Mrs. Ho can hear you, please.

A Yes.

Q Do you have a nickname in Chinese, Che Sing?

A Yes.

Q Does that mean crazy?

A Ye .

Q How long before you met Ah Suey had you been engaged in selling heroin?

A About two years.

Q I should have qualified it. You did meet Mr. Ah Suey in Hong Kong in 1960?

A Yes.

Q At that time it was a casual meeting and you had a cup of tea together?

A Yes.

Q At that time was there any discussion concerning narcotics?

A No.

Q Can you tell us for what period of time you were in his company then, in 1960?

A Very short.

Q You had never seen him before that time?

A No.

Q You next saw him for the first time in October of 1972?

A Yes.

Q Incidentally, are you related distantly by marriage to Ah Suey?

A I am not clear on that.

MR. O'ROURKE: May I have a moment, your Honor?

THE COURT: Yes.

(Pause.)

Q Mr. Lam, do you have a mother-in-law?

A Yes.

Q She is related to Ah Suey's wife, is that correct?

A I don't know.

Q You came here to New York in 1967?

A Yes.

Q Did you work at anything other than the gambling club and selling heroin?

A I worked as a cook and I worked as a waiter.

Q Where?

A I was a cook at the Northern Boulevard place.

Q For how long?

A About one year.

Q Did you get the money to open the gambling club from the sales of heroin?

A The gambling joint is chipped in with other people also buy shares.

Q Was one of those people a lady by the name of Chan Kong?

A Yes.

Q She was your partner in the gambling club?

A Yes.

Q She is currently in jail for selling narcotics?

A Yes.

Q When did you first tell anybody that you had purchased heroin from Ah Suey?

A It's in July 1972.

Q When did you first tell anybody connected with a law enforcement agency that you received heroin from Ah Suey?

A 1974.

Q 1974. From 1972 to 1974 you were in prison, is that correct?

A '73 and '74, I was in jail.

Q Approximately how many sales of heroin had you engaged in prior to meeting Ah Suey?

A I don't remember how many times.

Q Would it be 15, 20?

A Maybe.

Q Can you recall the details of all of those sales?

A I don't remember.

Q And did you make any notes or keep any diary with respect to your transactions, your alleged transactions with Ah Suey?

A No.

Q You stated it was in July of 1974 you first told law enforcement people about Ah Suey?

A Yes. I told the agents in 1974.

Q July of 1974?

A I don't remember the exact month.

Q Had the agents come down to the pricon where you were incarcerated?

A Yes.

Q Had you written to them before they came down?

THE INTERPRETER: He wants me to repeat the question.

THE COURT: Repeat it, then. The reporter will repeat it and then you will repeat it to him.

THE INTERPRETER: Will you please repeat the question to me.

(Question read.)

A I had not write to them. I notified them.

Q How did you notify them?

A I asked my wife to notify them.

Q You have learned to speak some English since you have been down at the prison, is that correct?

A Yes.

Q You were advised that you are eligible for release sometime in 1976, is that correct?

A No.

Q Do you know when you are eligible for parole, for release?

A I understand that it would be five years before I can get a parole.

Q You don't know when you are eligible, is that correct?

MR. KAUFMAN: I don't think that's what the witness testified to, your Honor. I think the witness just said in five years.

MR. O'ROURKE: Perhaps I can rephrase it, your Honor.

Q Mr. Lam, is it your testimony that you have never bothered to ask when you are eligible for parole?

A I had not ask when I would be paroled.

THE COURT: Now, Mrs. Interpreter, you are dropping your voice and I can't hear you at all. You have got to try to speak up.

THE INTERPRETER: I did not ask when I would be paroled.

Q How many times did the agents visit you at the prison?

A They came to see me once. They took me to Washington.

Q How long were you in Washington?

A Eight months.

Q While you were at Washington, you were still incarcerated?

A Yes.

Q Were you given furloughs and allowed to go home?

A No.

Q How many times did agents visit you while you were at Washington?

A Many times. I don't remember.

Q Did they discuss with you your status, that is with respect to your citizenship?

A Yes, they did. I asked them.

Q And what did they say to you with respect to that?

A I asked them to return the green card to me. They said when you get out of jail it will be given back to you.

Q Did you ask for any consideration for coming and testifying and giving information?

A I have asked.

Q What were you told?

A They said when the time comes for parole we would tell the Parole Board about your cooperation.

Q Now, Mr. Lam, do you know Ah Suey's correct name?

A I don't know.

Q In July of 1974, you told the authorities that you had done business with a man named Ah Suey, correct?

A I don't remember.

Q For the first time that you told the agents about Ah Suey, that was in 1974 in July, was it not?

A I don't remember the month.

Q Was it in 1974?

A Yes.

Q Now, your gambling club was located at 85 Bayard Street, is that correct?

A It's 83 Bayard.

Q Did not Mr. Ah Suey operate his laundry and grocery store at 85 right next door to your gambling house?

A Yes.

Q You say him on a day to day basis while your gambling club was in operation?

A Not every day.

Q Is the name in Chinese charkers on the window or his store at 85 Bayard Street?

A I do not pay any attention to that.

Q So how long did you have your gambling club at 83 Bayard Street?

A About eight weeks.

Q Did Mr. Ah Suey come into the gambling club sometimes?

A Yes.

Q Was it on a daily basis?

A No.

Q Was he a patron of the gambling club?

A I did not pay any attention to that.

Q Did you make any purchases or leave any laundry with his place of business next to you?

A No.

Q In '74 when you told your wife that you wished to speak to the agents, at that time you only knew him as Ah Suey, is that correct?

A Yes.

Q You state that you first met him here in New York

in October of '72, is that correct?

THE INTERPRETER: He said is that the first time that he saw him?

MR. O'ROURKE: In the United States.

A Now and then I could have seen him on the street, but we did not have much to do with each other.

THE COURT: Can you hear the interpreter in the front here?

JUROR NO. 7: It is very hard.

THE COURT: There is difficulty to hear you. I am sorry to ask you repeatedly, as I have asked the witness, to please speak up.

Everyone in the courtroom must hear the answers.

My remarks where directed to you, too, you know.

THE INTERPRETER: My voice is getting tired, your Honor. Could I stand up --

THE COURT: You can move a little closer to the front of the jury box.

Remember to speak up. When you are that close to him he loses his voice and face the jury when you answer.

THE INTERPRETER: I will do that, your Honor.

Q After you met Ah Suey in Hong Kong, you didn't see him again in October of '72, is that correct?

A I could have seen him in Chinatown now and then,

but we did not greet each other.

Q By "I could have", does that mean you saw him on the street and you didn't have a conversation with him?

A Yes.

Q You first met him formally in the United States at the Hong Gong Restaurant, is that correct?

A Yes.

Q How do you know it was in October of '72 you first met him in the Hong Gong Restaurant?

A I remembered it.

Q In the past two weeks have you been in the office of the prosecutor, Mr. Kaufman?

A Yes.

Q Were agents present?

A Yes.

Q Did you have conversations concerning this case?

A Yes.

Q Were you told the questions you were going to be asked?

A I told him I am prepared to tell the truth.

MR. O'ROURKE: Could I have the question answered? Will you tell him to answer the question.

THE INTERPRETER: Please repeat the question he just asked.

(Question read.)

A Yes.

Q With respect to the answers, was your memory refreshed by any memoranda or any notes?

A I did not write anything down, but I remembered.

Q Was your memory refreshed by anything that somebody else had written down?

A No.

Q During the time that you were selling heroin before you met Ah Suey, how many suppliers did you have?

A Two persons.

Q Now, you state that in October of '72 Mr. Ah Suey came into the Hong Kong Restaurant with several people.

A Yes.

Q Prior to that time you hadn't seen him in 12 years.

A I said now and then I had seen him on the street.

Q That's correct, I should have said you hadn't talked to him in 12 years.

A Not much to say.

Q Did you know any of the people that Ah Suey came into the restaurant with some day in October of '72?

A I don't know them.

Q Prior to that time you never discussed heroin with

Ah Suey?

A No.

Q As soon as he walked into the restaurant you separated him from his company and brought him to an excluded area of the restaurant, is that correct?

A Yes.

Q Your greeting to him was I have a pound and a half of heroin?

MR. KAUFMAN: Objection, your Honor. That hasn't been the testimony at all.

MR. O'ROURKE: That's the question.

THE COURT: But I don't recall that was his testimony.

You are suggesting that you are paraphrasing his testimony. The jury's recollection will govern, but it is my recollection that was not his testimony.

Q What was the first thing said by either you or Ah Suey?

A Who started the conversation I do not recall, but two of us walked to the side of the restaurant to discuss heroin.

Q What was the first thing said?

A We greeted each other and asked how we each are.

Q And after that?

A Then he said I have some crystal heroin on hand. I would like to look for somebody to buy it.

Q How long had you been talking before he said I have some crystal heroin on hand?

A Very shortly.

Q Then other than inquiring as to how much other was, the only other conversation was Mr. Suey saying I have some crystal heroin on hand, is that correct?

A Yes.

Q Then what did you do after that, if anything?

A He wanted me to look for somebody to buy it and I said I agree.

Q Mr. Lam, will you speak up loud enough so that the interpreter at the table can hear you, please.

THE WITNESS: (In English) Okay.

Q Did he go back to his friends or did he leave the club, the restaurant right then and there?

A He joined his friends.

Q Did you leave the restaurant or did you stay there?

A I was working there.

Q You were working as a waiter?

A Yes.

Q Did he introduce you to any of his friends?

A No.

Q Did you have any further conversation with Mr. Ah Suey that night at the restaurant after he went to his table?

A No.

Q How long did he remain in the restaurant?

A He didn't stay very long. After they finished dinner they left.

Q When did you next see him?

A About two weeks later.

Q That night at the restaurant, did he give anything to you?

A He gave me telephone number.

Q Do you still have that telephone number?

A No.

Q Did you destroy that telephone number or lose it before you were convicted?

A Before I came to Court I threw everything away.

Q Before you came to Court and your own case or this case?

A My own case.

Q Did Mr. Ah Suey tell you where the telephone was located?

A He told me that's the number for the volly ball

club. You can call me in the evening to find me there.

Q And had you been familiar with the volley ball club before that night, some night in October of '72 at the Hong Gong Restaurant?

A I have seen that many times.

Q Had you been inside the club prior to that day?

A No.

Q That club was located at 179 Canal Street?

A Yes.

Q How far is that from the Hong Gong Restaurant?

A About two blocks.

Q Did Ah Suey tell you what hours he could be called there at the club?

A He said in the evening.

Q Did he specify which evening hours?

A No. He just said in the evening.

Q Prior to yourself being arrested, have you ever been in the volley ball club?

A No.

Q Have you been in there since?

A No.

Q Do you know anything about the club?

A I don't know.

Q Is it also known as the Viking Club?

A I know the Chinese name to be Wun Fung, but I don't know the other.

Q After that meeting at the Hong Gong Restaurant, you didn't see or hear from Ah Suey for two weeks, is that correct?

THE INTERPRETER: May I repeat the question to him again? I don't think he understood the question.

MR. O'ROURKE: Sure.

A A few days later I saw him again.

Q Weren't you operating a gambling club on a day to day basis at 83 Bayard Street?

A After I saw him, about two weeks later, I opened the gambling joint.

Q When did you open the gambling club?

A November.

Q Of 19 what?

A 1972.

Q Do you know who the owner of the premises was at that time?

THE INTERPRETER: Premises?

Q Do you know who the owner of the building where the gambling premises was housed?

A I don't know.

Q Did you negotiate with the landlord for the purpose

of renting the premises?

A It was handled by Chan Bik Kong.

Q In any event, the man or woman who handled the negotiation with the landlord was your business associate, is that correct?

A Yes.

Q How many associates did you have in the gambling club?

A Half and half.

Q How many people altogether had an interest in the gambling club?

A I don't know. I don't even know how many people on my own side.

Q Mr. Lam, do you know how many partners you had in the gambling club?

A I don't know.

Q Did your organization execute a lease with the landlord for rental of the premises?

A I am not clear on that.

Q How much rent did your business pay to the landlord?

A To the best of my recollection, it was $150.

Q Did you pay the rent to the landlord directly?

A No.

Q Do you know the landlord's name?

A I don't know.

Q Some two weeks later when you where in contact with Ah Suey again, how did you communicate, directly or by telephone?

A Ah Suey came to look for me at the gambling place.

Q After Ah Suey came to look for you at the gambling place?

A Yes.

Q That was next door to his place of business?

A Yes.

Q Incidentally, had you ever been in Ah Suey's store?

A No.

Q Did you know his wife or any employees at work in his store?

A I don't know them.

Q During the eight week period that you operated the gambling club, did you ever see Ah Suey in his store at 85 Bayard Street?

A No.

Q When he came into your store, your gambling club, two weeks later, was he required to present any identification to somebody at the door?

A No.

Q Where the doors to the gambling house open for anybody that wanted to walk in?

A The Chinese can go in.

Q Did you have somebody there as security to screen people walking in?

A Yes.

Q Is it your testimony that Chinese people entering the premises were not questioned by the security man?

A No.

Q What was the name of that security man that was on duty that day that Ah Suey came into your gambling house?

A I don't remember.

Q Incidentally, did your business keep any books and records?

A That's not my business.

Q After Ah Suey came in were you yourself engaged in playing cards or supervising the gambling activities?

A I gamble all the time.

Q I am referring to the time that Ah Suey came into your club for the first time.

A I was either walking around or I could be gambling I don't recall.

Q You told the agents, the authorities that Ah Suey

came into your club, didn't you?

A Yes.

Q And you told them that in July of '72, is that correct?

A I am not that exact on the month.

Q Did the agents ask you the names of the employees of your club?

A I don't remember whether they asked me that or not.

Q Can you recall anything they asked you with respect to Ah Suey's visit to your club?

A I do not remember.

Q Now, you had this conversation with Ah Suey in the club?

A Yes.

Q Was there anybody else present during that conversation other than you and Ah Suey?

A No.

Q Were there people in the club at that time besides you and Ah Suey?

A There were many people there.

Q And you knew many of them by name, did you not?

A I know him by sight. I do not always remember their names.

Q Did you know any of their names, those people that were in the club?

A Some of the employees names I know.

Q Did you give those names to the agents in 1974 when they questioned you?

A No.

Q Did the agents ask you who was in the club when Ah Suey came in?

A I recall saying that Ah Suey came to my club, but I recall Ah Suey came to my club, but I don't remember saying anybody else.

Q How long did he remain in the club?

A Not very long.

Q After that when did you see him again?

A About a week later I saw him.

Q After he left the club there came a time when you met the Chan brothers, is that correct?

MR. KAUFMAN: Objection, your Honor. I don't think that's a correct statement of the testimony.

MR. O'ROURKE: I will rephrase the question.

Q In relation to the time that Ah Suey came into your club when did you meet the Chan brothers?

A About a week something later the Chan brothers were arrested.

Q You recall this?

A Approximately.

Q Can you recall the name of the individual that you made your second sale of heroin to?

A Yes, I remember.

Q Where was that?

A Ah Dau.

THE COURT: Where?

THE INTERPRETER: He mentioned the name Ah Dau.

Q Now, the Chan brothers came to your club?

MR. KAUFMAN: Your Honor, I must object because Mr. O'Rourke is switching back and forth between different customers and different transactions. I am having difficulty understanding him. He is talking now about Ah Dau who were the first customers of the Chan brothers who was the first customer --

THE COURT: I think without changing your cross examination I think it would be better if you did confine yourself in each instance to the alleged transaction. It would lend itself to a more orderly presentation and I think a better understanding by the jury of the issues.

MR. O'ROURKE: Very well.

May I have the last question read back, please.

(Question read.)

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Q When, what month and in what year did the Chan brothers come to your club?

A They have not been to my gambling place.

Q Where did you first meet the Chan brothers?

A At the Hong Gong Restaurant.

Q When was that?

A October.

Q Of what year?

A 1972.

Q Was this before or after you met Ah Suey in October of '72?

A Before I saw Ah Suey again every day you've had to see the Chan brothers.

Q Now, there came a time when you had a conversation regarding heroin with the Chan brothers, is that correct?

A Yes.

Q Where did that conversation take place?

A In the bar at the Hong Gong Restaurant.

Q How long had you known the Chan Brothers when you had that conversation at the bar?

A Long time.

Q Both of them?

A Yes. I saw them often.

Q As a result of that conversation what did you do?

A I told them there is available one and a half pounds of heroin and do you want them. They said yes, we want it because we need to pay our attorney.

Q Now, this was the early part of October or the latter part of October of 1972?

A Sometime in October. I don't remember whether it was the beginning or the end.

Q How do you remember it was October?

A I recall it was October.

Q Could it have been September?

A I don't remember, but I recall very clearly it was October.

Q Was your gambling club in operation that day?

A Not open.

Q Can you recall what day of the week it was?

A You mean when my gambling place was open?

MR. O'ROURKE: The day of the week that he had the conversation with the Chan brothers at the Hong Gong bar.

A I don't remember.

Q Was it a Sunday?

A I don't remember which day.

Q After that conversation what did you do?

A I said there is one and a half pounds of heroin and the price is 11,500. They said all right, we need money for the attorney's fee.

Q You are droping your voice again.

A We need money for the attorney's fee.

Q What happened after that?

A They asked me to hold on to the first and they would look for somebody to buy it.

Q When they said hold on to it did you have it with you at the time?

A He meant to reserve it and not to sell it to somebody else.

Q Mr. Lam, did you have it in your possession at that time or in the restaurant?

A No.

Q After that did the Chan brothers communicate with you or did you seek them out and communicate with them?

A They came to the restaurant to look for me.

Q Had the Chan brothers to your knowledge, been engaged in buying narcotics prior to that day?

A Yes, they have dealt in heroin.

Q Had they ever bought off you?

A Yes.

Q When was the occasion before the meeting in the

Hong Gong Restaurant where they bought off you?

A The same year, but I don't remember the month.

Q Was it the month before?

A Approximately like July.

Q Now, did there come a time that you went with them to the volley ball club?

A Yes.

Q Prior to going there had the Chan brothers, or either one of them, given you any money?

A Yes.

Q Where?

A They brought it to the restaurant.

Q Was that the same night that you had the conversation with them at the bar?

A We had conversation first and then they brought the money.

Q The same evening?

A We had a conversation that evening. A few nights later they brought me the money.

Q Did you give them a sample of the product that they were going to purchase from you?

A No.

Q Had you seen what you were going to sell to them?

A No.

Q Did they ask for a small sample to taste it or test it?

A No.

Q How many times before that had you sold them heroin?

A Many times.

Q Now, before going to the volley ball club, you had called a certain telephone number, is that correct?

THE INTERPRETER: I didn't quite get your question.

Q Before you and the Chan brothers went to the volley ball club you dialed a certain telephone number?

A Yes.

Q What time was this?

A In the evening. I do not recall the exact hour.

Q Was it before 11 o'clock at night?

A Not so late.

Q Well, was it before 7?

A It is in the evening. What hour I am not exact.

Q When you called there somebody responded to the telephone call, is that correct?

A Yes.

Q Did that voice answer by saying I am Ah Suey?

A I called and I said I want to talk to Ah Suey.

He said I will call him over.

Q And then did you hear another voice on the telephone?

A Yes.

Q Now, any time before this did Ah Suey ever tell you when you had business to transact to come in right next door to where the gambling store was?

THE INTERPRETER: I didn't get your question.

MR. O'ROURKE: I will repeat it.

Q Before this, at any time did Ah Suey say don't use the telephone, walk five feet into my store and talk to me?

A No.

Q Now, can you recall the exact conversation you had with Ah Suey on the telephone?

A I remember approximately I told him I have received the money and asked when can I have the heroin.

Q Where were you making that telephone call from?

A I called from a public telephone at the Hong Gong Restaurant.

Q Were the Chan brothers with you at that time?

A They were there.

Q Were they next to the telephone booth when you made that call?

A They were at the table drinking.

Q Did you tell the agents when you were interrogated that you made the telephone call to the volley ball club while the Chan brothers were at the table?

A Yes.

Q When did you tell them that?

A I have told it like that.

Q Recently?

A When they interrogated me.

Q Now, there came a time after that telephone call from the Hong Gong Club that you went to the volley ball club.

A In a little while.

Q In a little while.

I thought I recalled you stating that you did not go upstairs to the volley ball club, you stayed down on the street.

A Yes, sir.

Q To your knowledge had the Chan brothers ever been in the volley ball club before that night?

A They had not been there.

Q They were not there?

A They had not been there.

Q Did they ask you to go upstairs with them?

A No.

Q Did they say anything when you stayed downstairs

in the street?

A I stayed with Chan Yuk Shui on the street when Chan Yuk Wo went up to get it.

MR. O'ROURKE: Would you repeat the answer.

THE WITNESS: .I stayed with Chan Yuk Shui on the street, one of the Chan brothers, when Chan Yuk Wo went up to get it.

Q And the voice on the telephone had given you directions where to pick up the package?

A Yes.

Q You were going to bring this package to that little room in your gambling club, weren't you?

A No.

Q What did you intend to do with it?

A Since that was sold to the Chan brothers, that's their business.

Q Of your knowledge, did either of the Chan brothers, or at least the one that went upstairs, did he see Ah Suey up there?

A I don't know if he is there.

Q What were the directions that the voice on the telephone gave?

A He said I am Ah Suey.

Q And what else did he say?

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A I said I have collected the money. When can I get the heroin?

Q And what did he say?

A He said about 10 o'clock or so. I would leave the package on the head of the stairway and you can get it there.

Q Was that the extent of his directions with respect to where the package was?

A He specified the third floor stairway, the corner of the stairway.

Q That a package would be on the stairway on the third floor?

A Yes.

Q Did he say what time?

A Yes.

Q What time?

A It's approximately 10 o'clock.

Q Did he say that at approximately 10 o'clock that he would put it on the staircase, the package of heroin?

A Yes.

Q So that it was before 10 o'clock when you made the telephone call to him, is that correct?

A Yes.

Q What time in fact did you and the Chan brothers

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go to the volley ball club?

A As I can recall, it's around 10 o'clock when we went there.

Q Mr. Lam, how many times have you been asked the questions by the United States Attorney's office and the agents?

A I don't remember how many times.

Q Was it ten?

A I don't remember how many times.

Q When Mr. Chan came down --

THE COURT: Now wait, the witness said something.

THE INTERPRETER: He said he is not feeling very well. Could we continue tomorrow.

MR. O'ROURKE: I have no objection to that.

THE COURT: It is about adjournment time anyway. I will ask you to please be inside so we can start promptly at 9:30 tomorrow morning.

(Adourned to 9:30 a.m., Tuesday, March 25, 1975.)

CLERK'S COPY
RETURN TO COURT REPORTERS
Room [illegible]

UNITED STATES OF AMERICA

- v s -

75 Cr. 173

SUEY WING NG.

March 25, 1975

[9:30 a.m.]

[Trial resumed.]

[Jury present.]

LAM KING SANG, resumed.

CROSS-EXAMINATION [continued]

BY MR. O'ROURKE:

Q Mr. Lam, how long have you known Ah Dau when you made the first sale of heroin to him?

A About one year.

Q And did you walk with him to the Volleyball Club to pick up the heroin?

A Yes.

Q And were the instructions to pick it up at the same spot as where the Chan brothers picked it up?

A Yes.

Q And where was that?

A It's on the third floor of the stairway of the Volleyball Club.

Q On the second transaction with Ah Dau, did he

also walk upstairs to the Volleyball Club and pick up a package?

A Yes.

Q Now, getting back to the Chan brothers, when you went to the Volleyball Club it is my understanding that you remained downstairs with one of the Chan brothers; is that correct?

A Yes.

Q Which one remained downstairs with you?

A Chan Yuk Shui.

Q How do you recall it was he who remained with you?

A I remember.

Q And did you wait downstairs in front of the building, or were you across the street?

A I remember I was waiting downstairs.

Q With one of the Chan brothers?

A Yes.

Q Do you recall testifying before a Grand Jury in this building last August 21st and Mrs. Ho was also the interpreter at that time?

A I remember.

Q And Mr. Kaufman seated here at the table asked you a number of questions and you gave him a number of

questions and you gave him a number of answers?

A Yes.

Q Do you recall this question and this answer:

"Q Did you thereafter call Ah Suey and tell him that you received the money from the Chan brothers"?

MR. KAUFMAN: What page?

MR. O'ROURKE: 4.

Q "A Yes."

Do you recall being asked that question and giving that answer?

A Yes.

Q Do you recall this question:

"Did you then go with the Chan brothers to this recreation club to Canal Street?

"A I went with them to the recreation club, but I waited to cross the street."

Do you recall that question and your responding with that answer?

A I recall answering that I was waiting downstairs. I don't remember whether it was across the street or just downstairs.

Q Do you recall this question:

"Q Did the Chan brothers go into that building"?

And this answer: "Yes"?

A Yes, I have answered that way.

Q And you answered in that manner on August 21st, 1974?

A Yes.

Q And was your memory fresher in August of '74 than it is today?

A I did not write or record my notes, but this is the way I remembered it.

Q How much time elapsed from the time you made the first transaction with Ah Suey until that time when he himself brought the heroin to your gambling place?

MR. KAUFMAN: Objection, your Honor.

THE COURT: With respect to what item are you questioning?

MR. O'ROURKE: I will rephrase the question.

THE COURT: It isn't clear as to what number he is testifying to.

Q The very first transaction that you had with Ah Suey; do you recall that?

A Is it what time?

Q No, does he recall the transaction, when it occurred, what month, what year.

A About October of 1972.

Q That was the heroin that the Chan brothers picked

up?

A Yes.

Q Now, sometime after that there were other transactions and then there came a time when Ah Suey himself physically brought the heroin to you. Isn't that correct ?

A Yes.

Q And how much time elapsed between that first transaction at that time that he brought the heroin himself?

A About two months.

Q That would be in December '72?

A Yes.

Q I believe you stated that that particular night that he brought the heroin to the gambling club you kept it in your premises; is that correct?

A Yes.

Q Do you recall Suey Nom coming to your gambling place?

A I remember.

Q I beg your pardon?

A I remember.

Q What time of day did he come to your place?

A In the evening. I do not remember the exact hour.

Q Approximately.

A Approximately eight or nine.

Q And Mr. Ah Suey's store was open right nextdoor to you at that time?

A I don't know.

Q And after Suey Nom came to your place, did you make any telephone calls?

A I recall in a very short time I did telephone.

Q To whom?

A I called the Volleyball Club to look for Ah Suey.

Q And before you called the Volleyball Club, did you walk nextdoor to see if he was at his place of business?

A No.

Q Did you call his place of business?

A No.

MR. O'ROURKE: I have nothing further, your Honor.

THE COURT: Any redirect?

MR. KAUFMAN: Yes, your Honor. One moment.

[Pause.]

THE COURT: You may proceed.

MR. KAUFMAN: Yes, your Honor.

REDIRECT EXAMINATION

BY MR. KAUFMAN:

Q Mr. Lam, I believe yesterday Mr. O'Rourke asked

you whether or not you had any notes with respect to these transactions, and I believe your answer was that you did not, or that at least you did not make notes while you were being interviewed by the prosecutors .

A Yes.

Q Did you make any notes at all at any time, say, when you were in prison with respect to the transaction in this case?

A No, I did not write down the notes.

MR. O'ROURKE: May we have this marked for identification, your Honor?

THE COURT: Yes.

[Government's Exhibit 1 marked for identification.]

Q Are those pages in your handwriting, Mr. Lam?

A Yes.

Q And are they in English or Chinese?

A Chinese.

Q Do any of those writings have anything to do with the transaction that you testified about in this trial?

A Yes.

Q And are those your notes?

A Yes.

Q When did you make those notes?

A Very recently.

Q Well, when you say, "Very recently", when do you mean?

A The last few months.

Q Did you make them in my office?

A I -- when I recall something, I jot it down.

Q Now, when I interviewed you in my office, did I allow you to refer to those notes or to any notes?

A No, I did not refer to them and I seldom write.

Q I believe Mr. O'Rourke also asked you yesterday whether or not you had other heroin deals besides the deals you have testified about here at this trial.

A Yes.

Q About how many other heroin deals did you have besides the ones you have testified about at this trial?

A I don't remember how many times.

Q Approximately.

A About 20 times.

Q And I believe Mr. O'Rourke asked you if you could recall the details of all of those sales, and you said you don't remember.

A Yes.

Q Without getting into the specifics of any of these others sales, do you remember the details of any of them?

A I don't remember.

Q Have you testified in the grand jury on any other occasion about any of these other sales?

A Yes.

Q And when you testified in the grand jury about these other sales, did you recall those transactions?

A I remember.

MR. KAUFMAN: Will you mark Government's Exhibits

2, 3, and 4 for identification?

xx (Government's Exhibits 2, 3 and 4 marked for identification.)

Q I show you Government's Exhibit 2 marked for identification and ask you if you can identify that.

(Handing to the witness.)

A This is a picture of my gambling place.

Q At what address?

A Number 83.

Q And is that an accurate representation as to what your gambling club, or the entrance to your gambling club looked like in the latter half of, or after November of 1972?

A Yes.

Q I show you Government's Exhibit 3 for identification, and ask if you can identify that.

A This is the shop of Ah Suey.

Q At what address?

A Number 85.

Q And is that a fairly accurate representation as to how that shop looked in the last few months of 1972, if you recall?

A Yes.

Q I show you Govenment's Exhibit 4 for identifi-

cation and ask if you can identify that.

A This is the location of the volleyball club.

Q At what address?

A 179 Canal Street.

Q Is that an accurate representation as to how that location looked in November and December of 1972?

A Yes.

Q Do you know on what floor the volleyball club was at that location?

A At the top there.

THE INTERPRETER: He is pointing to --

Q Where the word "Vikings" is written in the window?

A Yes.

MR. KAUFMAN: Your Honor, the Government offers 2, 3 and 4.

MR. O'ROURKE: No objection.

xx (Government's Exhibits 2, 3 and 4 received in evidence.)

MR. KAUFMAN: May they be circulated to the jury, your Honor.

THE COURT: Yes.

MR. KAUFMAN: I would just like to remind the jury that number 2 is the entrance to the gambling club,

number 3 is the defendant's store, and number 4 is the building which contained the volleyball club at the top of the picture.

MR. KAUFMAN: No further redirect, your Honor.

RECROSS EXAMINATION

BY MR. O'ROURKE:

Q Mr. Lam, were you a member of the Viking Club?

A No.

Q You have never been in the Viking or the volleyball club?

A No.

Q And you have no idea what floor of the building the club is located on, isn't that correct?

A I know.

Q I beg your pardon?

A I know.

Q You know where it is located, the floor it is located on?

A Yes.

Q And how do you know that?

A I pass there all the time.

MR. O'ROURKE: Thank you.

THE COURT: The witness may step down.

(Witness excused.)

MR. KAUFMAN: The Government calls Danny Or.

D A N N Y O R, called as a witness by the Government, having been first duly sworn by the Clerk of the Court, through the Official Chinese Interpreter, testified as follows:

DIRECT EXAMINATION

BY MR. KAUFMAN:

Q Mr. Or, how old are you?

A 24.

Q I am going to ask you, Mr. Or, to keep your voice up so that we can all hear you back here in Chinese, okay?

A Yes.

Q Talk so I can hear you. Don't talk to the interpreter.

A All right.

Q How old are you?

A 24.

Q Have you ever been known by any other name of nickname?

A My real name is Or Choik and sometimes they call me Ah Dau.

Q Where were you born?

A In Hong Kong.

Q How long did you live in Hong Kong?

A 17 years.

Q And at that time what did you do?

A I joined the seamen, marine.

Q You worked on board a ship?

A Yes.

Q And how long did you do that?

A Almost one year.

Q And what happened at the end of that one year?

A At that time the ship came to the U. S. and I jumped ship.

Q About when was that that you jumped ship?

A July of 1948.

Q So you are an illegal ailen then, is that right?

A Yes.

Q And were you ever arrested for being an illegal alien?

A Yes.

Q When was that?

A The latter part of September 1972.

Q And because of that, are you now subject to deportation?

A Yes.

Q Have you ever been charged as a defendant in an indictment?

A Yes.

Q What crime were you charged with?

A For selling heroin.

Q And how many sales were you charged with making?

A Two times.

Q And were you convicted of those sales of heroin?

A Yes.

Q In what court were you convicted?

A The Supreme Court of New York State.

Q Were you sentenced as a result of that conviction?

A Yes.

Q And what sentence did you receive?

A 15 years to life.

Q And when were you sentenced?

A October 31 of 1973.

Q Are you currently serving that sentence?

A Yes.

Q This will be a long question, so if the interpreter can interpret it in parts it may be helpful.

Have you been told that in connection with your testifying here in behalf of the Government --

MR. O'ROURKE: Your Honor, at this point, I will object to any leading. I prefer the question be what have

you been told, if anything?

THE COURT: I will hear an offer of proof outside of the hearing of the jury.

(At the side bar.)

MR. KAUFMAN: He has been promised basically the same thing the previous witness was promised, that is cooperation would be made known to the state authorities.

THE COURT: Why shouldn't he be permitted to develop that?

MR. O'ROURKE: Couldn't he just ask the question "What have you been told," instead of suggesting the answer?

MR. KAUFMAN: That's been attempted in many other cases and it usually takes a long time.

THE COURT: Suppose you try it first. Put a question to him non-leading as to whether any promises have been made to him with respect to his testifying.

(In open court.)

Q Mr. Or, have any promises been made to you with respect to your testifying here in behalf of the Government?

A Yes.

Q And please tell us what has been told to you.

A They have promised to write to either the Judge or --

THE INTERPRETER: May I ask him to repeat the answer again?

(Witness repeated the answer.)

A The Government has promised that after my cooperation with the Government that the Government will write a letter to the Judge who sentenced me to tell him of my cooperation.

Q Would that letter be with respect to any motion or application you or your attorney may make to have your sentence reduced?

A Yes.

Q Have any other promises been made to you?

A They also promised that when the time comes the same action will be taken to the Parole Board, to inform them of my cooperation with the Government.

Q And that would be at the time that you would be eligible for parole, is that right?

A Yes.

Q Have you also been told that the Government would request the State authorities to see if it is possible to transfer you to a prison which would be closer to New York City?

A Yes.

Q Have any other promises been made to you in

return for your testimony at this trial?

A No.

Q Mr. Or, when did you first become involved with heroin?

A In June of 1972.

Q Did you use heroin?

A Yes.

Q And did you also sell heroin?

A Yes.

Q Tell us how you used the heroin?

A Sometimes I insert some of the heroin into the cigarett and I smoke it. Another way is I would put some of the crystals on top of a foil, heat it from below, and then I sniff it.

Q Do you know a man named Lam Kin Sang?

A Yes.

Q When did you first meet him?

A Between May and June of 1972.

Q Did you know Lam Kin Sang by any other name?

A Sometimes Lam Ping, and sometimes Chi Sing Lan.

Q Lam Ping is L-a-m P-i-n-g?

A That?s the Chinese name, but that would be a close phonetic translation.

Q And I have no idea of how to spell the other one.

A C-h-i S-i-n-g L-a-n.

Q Did there come a time when you had a heroin transaction with Lam Kin Sang?

A Yes.

Q And when was that?

A The summer of 1972.

Q Did you buy or sell heroin with Lam Kin Sang?

A I bought from him.

Q How much did you buy?

A One pound.

Q Did you continue to buy heroin from Lam Kin Sang after that transaction?

A No.

Q ~~Did~~ there come a time eventually when again you did buy heroin from Lam Kin Sang?

A Yes.

Q And when was that?

A December.

Q Of what year?

A '72.

Q Now, between the time when you bought heroin from Lam Kin Sang in the summer of 1972 and the time when you bought from him in December of 1972, did you buy heroin from anyone else?

A Yes.

Q And who was that?

A Wing. W-i-n-g C-h-o-n-g.

Q Do you know if that was that individual's real name?

A I don't know.

Q Did you know him by any other name?

A We sometimes called him O Ng.

Q How did you meet Wing Chong?

A A friend introduced me.

Q Who was that friend?

A His name is Ah Sai.

Q A-h --

A S-a-i.

Q S-a-i? And about when did Ah Sai introduce you to Wing Chong?

A During the first transaction.

Q About when, month and year?

A I am not exactly sure about the month, but it seemed like August of 1972.

Q And tell us how that introduction happened to come about.

A At that time Ah Sai just came out of jail and he came to stay with me. He told me, "I can get some heroin from somebody without paying for them first." And he told me to find somebody to buy it and then we'll divide the profits later.

Q And did you agree to do this with Ah Sai?

A Yes.

Q And did he contact this person that he said he could get heroin from without having to pay for it first?

A Yes.

Q And how did he contact him?

A Sometimes he went to look for him and sometimes he telephoned .

Q I am talking now about the first time prior to your being introduced to this person. How did Ah Sai contact that person?

A Ah Sai called him this particular time and he told me, "Today we will be able to get the heroin and we will get it later."

Q Where did Ah Sai make the telephone call?

A In my apartment.

Q And did you hear what Ah Sai was saying during the telephone call?

A Yes.

Q And what do you recall Ah Sai saying?

A I do not remember the exact wording, but it's with regards to the deal.

Q And what happened after that telephone call?

A After that he told me that towards evening we should go and get the heroin.

Q And later that day did you go anywhere with Ah Sai?

A Yes.

Q Where did you go?

A Ah Sai and I went down to get my car and then we drove to Chinatown to the location of the Wing Chong shop.

Q And where was that located?

A On Bayard Street.

Q Do you recall the number?

A I am not very clear on that.

Q And what happened when you and Ah Sai got to that location on Bayard Street?

A I parked the car on the curb. Ah Sai got out and went to the shop. In a short while he came out and he entered my car. At that time he introduced me to the person. He said, "This is Wing Chong and this is Ah Sai", meaning myself.

Q Wing Chong, the person that Ah Sai introduced to you then, do you see Wing Chong here in court today?

A Yes, he is here.

Q Please tell us where he is in the courtroom.

A He is sitting over there.

Q At what table?

A That table.

Q Well, there are two green tables. Which one?

A The one further away.

Q And where is he seated at that table?

A He is sitting on the left-hand side.

MR. KAUFMAN: May the record reflect, your Honor, that the witness has identified the defendant.

THE COURT: Yes.

Q Was that the first time you had ever met Wing Chong?

A Yes.

Q I show you Government's Exhibit 3 in evidence and ask you if you can identify that.

A Yes.

Q And tell us what it is.

A That's a laundry shop.

Q The one that you just referred to where you met Wing Chong?

A That is Wing Chong's laundry shop.

Q What happened after Ah Sai introduced you to Wing Chong?

A He instructed me as to how to get up to the place to get the heroin.

Q Who instructed you?

A Wing Chong.

Q And what were his instructions, if you recall?

A I was driving and he instructed me which way to go.

Q And where did you drive to?

A We drove up to the Bronx.

Q To what location in the Bronx?

A To a place called No. 1504 Inwood Street.

Q What was at that address?

THE INTERPRETER: He said 1504 Inwood Street. May I repeat the question to him?

MR. KAUFMAN: Yes.

A That's the number of the house.

Q Well, what type of building or structure, or whatever, was at that location? What was there?

A It's a laundry factory.

Q Do you recall the name of that laundry factory?

A I don't remember.

Q Now, how are you able to recall the exact address of that laundry factory?

A About two weeks ago the agents and I drove there and I pointed out the place to them.

Q And at that time did you ascertain what the actual address was at that laundry factory?

A Yes.

Q Please tell us what happened when you and Ah Sai and Wing Chong drove to that laundry factory.

A When we got there I parked the car a little ways away from the factory. Ah Sai and Wing Chong got off the

car and Ah Sai stood by the car when Wing Chong walked towards the factory.

Q What happened when Wing Chong walked toward the factory?

A When he walked toward the factory there was somebody standing there waiting with a package. He took the package and walked towards the car.

Q Who took the package?

A Wing Chong.

Q And then what did Wing Chong do?

A He gave the package to Ah Sai. Ah Sai put the package in the car. Then we drove back to the apartment.

Q Was Wing Chong with you when you left this location in the Bronx?

A No.

Q Who drove back to your apartment?

A I drove.

Q With anyone else?

A Ah SAi.

MR. KAUFMAN: Would you mark this?

[Government's Exhibit 5 marked for identification.]

Q I show you Government's Exhibit 5 marked for identification and ask you if you recognize that.

A Yes. That's the laundry factory.

Q The one in the Bronx that you just talked about?

A Yes.

Q And is that an accurate representation as to how that building looked at this time in 1972 that you just testified about?

A Yes.

MR. KAUFMAN: The Government offers No. 5, your Honor.

[Pause.]

MR. O'ROURKE: No objection.

** [Government's Exhibit 5 received in evidence.]

MR. KAUFMAN: May I circulate it, your Honor?

THE COURT: Yes.

Q Now, what happened when you and Ah Sai returned to your apartment?

A When we got back we opened the package, took the heroin out and we waited. It was about a pound.

Q What did the heroin look like?

A They are in crystal form.

Q When you say "crystal", can you describe what you mean?

A Like course grains of sand.

Q And what color were they?

A Like coffee color, light coffee color.

Q And after you waited there, what did you do?

A Ah Sai and I took some out for our own use and then we put the rest aside.

Q And what did you do with the rest of the heroin?

A We went to sell it.

Q And did you sell the rest of the heroin?

A We sold ten ounces of that and the rest we used -- saved for our own use.

Q And how much did you sell the ten ounces for?

A We got $1,200 for one ounce.

Q So you sold the total for $12,000; is that right?

A Yes.

Q How much did you and Ah Sai have to pay for that heroin?

A I am not too clear on the price.

Q What is your best recollection?

A Approximately about seven thousand.

Q And do you know if that heroin was paid for?

A Yes.

Q How do you know?

A After we received the money from the sale, we counted the money and then divided it up and some of the money was put into a bag. We went down to Chinatown and Ah

Sai brought it to his shop.

Q Ah Sai brought it to whose shop?

A Wing Chong's.

Q And were you with Ah Sai when you went to Chinatown?

A I went down to Chinatown with him, but he went into the shop.

Q Where were you when Ah Sai went into the shop?

A I stood on the side of the street.

Q And how long was Ah Sai in the shop?

A Not very long.

Q Do you know what happened inside the shop?

MR. O'ROURKE: Your Honor, I will have to object to that. He couldn't possibly know if he wasn't inside.

THE COURT: Sustained.

Q Did you see Ah Sai after Ah Sai came out of the shop?

A Yes.

Q Do you know whether or not Ah Sai still had the money with him?

A No, he went in with the package and when he came out his hands were empty.

THE COURT: What was in the package when he went in?

take THE WITNESS: The money.

Q Did you and Ah Suey have any more transactions with Wing Chong?

A Two more times.

Q Now, after the ones you already told us about, how much time passed until the next transaction with Wing Chong?

A A few weeks.

Q Approximately what month was that?

A About September.

THE COURT: About when?

THE WITNESS: September.

THE COURT: 1972?

THE WITNESS: Yes.

Q Then there was a third and last transaction. When was that one approximately?

A Near the end of October.

Q Of what year?

A Of '72.

Q Now, these two transactions, how much did you and Ah Suey buy from Wing Chong?

A The second time is one pound; the third time is a pound and a half.

Q How did you and Ah Sui get the heroin from Wing Chong on the second transaction?

A After Ah Sui made the contact with Wing Chong, toward evening Ah Suey and I drove up to the Bronx.

Q Where in the Bronx?

A The laundry factory.

Q What happened there?

A When we got there Ah Suey got out of the car and Wing Chong was already waiting there for us with a package.

Q What happened when you saw Wing Chong?

A He handed the package to Ah Suey. Ah Suey got into the car. We left.

Q When you say "we left", whom are you referring to?

A Ah Suey and I.

Q Where did you and Ah Suey go?

A We went back to the apartment.

Q What did you do back in the apartment?

A We divided up the heroin, put some aside, and put the other lot aside, too.

Q What did this heroin look like?

A It's the same as the first time.

Q What price did Wing Chong charge you and Ah Suey for this heroin?

A The same price.

THE COURT: What was the answer?

THE WITNESS: The same price.

Q Do you know whether or not that money was paid?

A Yes.

Q How do you know that?

A The procedure was after we had gotten the heroin, we paid for it before we can do business for the third time, the following time.

Q Did you do business a third time with Wing Chong?

A Yes.

Q Tell us about that third transaction.

A The third time again Ah Suey and I drove up to the Bronx to get the heroin.

Q What happened there?

A When we got there Wing Chong was already at the laundry factory.

Q What happened?

A He handed the package to Ah Suey, then he came back to the car, then we drove back to the apartment.

Q Who handed the package to Ah Suey?

A Wing Chong.

Q Then who came back to the car?

A Ah Suey.

Q Did you and Ah Suey go anywhere?

A We went back to the apartment.

Q And what did you do there?

A We just divided things up and went away.

Q Did you weigh it as you did on the previous two occasions?

A Yes.

Q What was the weight?

A The weight is one and a half pounds.

Q Do you recall what the heroin looked like this time?

A The same like before.

Q Do you recall what the price was for this one and a half pounds?

A I'm not clear on the exact figure, but it would be more than the first two lots.

Q Did anything happen to Ah Suey at this time?

A At that time Ah Suey got deported.

Q After Ah Suey was deported, did you see Wing Chong?

A Yes.

Q Where did you see him?

A At his shop.

Q Are you talking about the one in the Bronx or the one on Bayard Street?

A The one on Bayard Street.

Q Did you have a conversation with Wing Chong?

A Yes.

Q Tell us about that conversation .

A I asked him, "Do you have any more heroin?" He said, "No."

Q Did you have any further conversation?

A At that time he told me he had not received the money.

Q The money from what?

A For the pound and a half of heroin.

THE COURT: Is this the last transaction, the third one?

THE WITNESS: Yes.

Q After that conversation with Wing Chong did you have any further transactions with him?

A No.

Q Did there then come a time when you returned to Lam Kin Sang as your source of heroin?

A Yes.

Q About when was that?

A About the middle of December.

Q Of what year?

A 1972.

Q What were the circumstances of your buying heroin from Lam Kin Sang?

A One day he asked me if I want some heroin. I said, "Yes." I said, "What is the price?" He said, "$11,000."

Q Where did you have this conversation with Lam Kin Sang?

A At his gambling place.

Q Where is that ?

A On Bayard Street.

Q I show you Government's Exhibit 2 in evidence and ask you if you can identify that.

A Yes.

Q What is it?

A The entrance to the basement of where the gambling club was.

Q You say that Lam Kin Sang quoted a price of $11,000? Is that right?

A Yes.

Q For what quantity was that?

A For one pound.

Q How much heroin were you talking about buying?

A I was planning to buy one pound, but he said I have to buy a pound and a half because the lots come that way.

Q Did you agree to buy the pound and a half?

A I agreed. I said, "Let me try and get the money."

Q What was the price for the pound and a half?

A $16,500.

Q Did you get the money?

A Yes.

Q How did you get the money?

A I went to ask a person by the name of Baby, see whether he wanted the heroin.

Q Where did you meet with this person you knew as Baby?

A I went to his apartment on Second Street.

Q Was Baby Chinese?

A No.

Q What nationality was he?

A Puerto Rican.

Q What language did you speak to Baby?

A I used simple English.

Q Do you understand enough English to understand everything I am saying to you now?

A I can get about half of it.

Q What conversation did you have with Baby?

A I told him, "I have someone who has one and a half pounds of heroin available, would you like to buy it"? He said, "Yes." He said, "You wait here while I go

downstairs to make a telephone call."

Q Did you discuss the price with Baby?

A Yes.

Q What was the price that you discussed?

A I told him $13,000 for one pound.

Q What was the price for the full pound and a half?

A $19,500.

Q Did Baby bring you $19,500?

A Yes.

Q When was that?

A After he had made the telephone call, he came back to the apartment. We waited for about an hour and some people showed up with the money.

Q Who showed up with the money?

A Two persons.

Q Men or women?

A Two men.

Q Did anybody else show up?

A After awhile a woman came up.

Q What did she do?

A She handed some money to Baby.

Q After Baby had this money what did he do?

A After he received the money he went inside a room. After awhile he called me in.

Q Where is this again? Where is this happening?

A In his apartment.

Q Baby's apartment?

A Yes.

Q What happened when you went into the room with Baby?

A He asked me to help him count the money.

Q Did you count the money?

A Yes.

Q How much did you count?

MR. O'ROURKE: Your Honor, may we have a side bar conference?

[At the side bar:]

MR. O'ROURKE: Perhaps I missed something, but this seems to be another conspiracy or an unrelated matter.

MR. KAUFMAN: No.

THE COURT: This is one of the alleged co-conspirators. I think he is going to tie this up with one of the transactions.

MR. O'ROURKE: That is what I thought.

THE COURT: He is giving the events preceding it. That is perfectly clear the way it has gone along here.

[In open court:]

Q How much money did you count?

A Both of us counted together for the sum of $19,500 and then we put the money into a bag.

Q Do you know if there was more money than that?

A I am not too clear on that.

Q What did you do with the $19,500?

A Baby was holding onto the money. We went down together to Chinatown to get the heroin.

Q Where did you go in Chinatown?

A We went to the gambling place on Bayard Street. The people who brought the money also wanted to go with us to that place and we said no, and asked them to wait at a corner.

Q You said you went to the gambling club?

A Yes .

Q Did Baby go with you to the gambling club?

A No, he didn't go with me; he parked the car on the side of the street and I brought the money in.

Q Whom did you see when you went to the gambling club?

A I saw Lam Kin.

Q Lam Kin is Lam Kin Sang?

A Yes.

Q What happened when you saw Lam Kin Sang in the

gambling club?

A I handed him the money. Then we went inside to the small office there.

Q And what happened inside that small office?

A He opened the bag and he looked in and then he put the money aside.

Q Did you give him the full $19,500?

A No.

Q How much did you give him?

A I gave him 16,500.

Q What happened to the additional $3,000?

A That is mine. I put it in my pocket.

Q And what did Lam Kin Sang do with the 16,500?

A He just opened the bag, looked in and then he put it aside.

Q And then what happened?

A He told me to wait for him at the corner of Canal and Mott Street.

Q And what did you do?

A I left and went to that place to wait.

Q When you left that inner room, were you with Lam? Was he doing anything?

A I saw him lifting the telephone.

Q Do you know who he was calling?

A No.

Q What did you do when you left the gambling club?

A I went to the corner of the street to wait for

him.

Q And what happened there?

A In a short while Mr. Lam was approaching me. And when he got there he indicated for me to follow him. We crossed the street to the building across the street there.

Q What building was that?

A That building is 179 Canal Street.

Q I show you Government's Exhibit 4 in evidence and ask if you can identify that.

A Yes.

Q What is it?

A That is the door where I entered to get the heroin.

Q This is the building at 179 Canal Street?

A Yes.

Q What happened there that night at that building?

A We entered the building. He went upstairs --

THE COURT: Who is "we"?

THE WITNESS: Mr. Lam and I. We entered the building. He went upstairs. I followed him for a few steps. He went upstairs, turned the corner and got the package.

Q Do you know on what floor that was?

A The third floor.

Q Then what happened?

A When we came down, he handed me the package.

Q And what did you do?

A I left that place.

Q Where did you go?

A I went to Baby's car.

Q And what happened then?

A I drove with Baby to go back to his apartment.

Q And did you go back to Baby's apartment?

A Yes.

Q Was anybody else there?

A When we got to that place, the two men and the lady saw us and they went up with us together.

Q And what happened up in the apartment?

A When we got back to the apartment, Baby opened the package. He looked at it. He said, "This is pound and a half and I do not have a scale to weight."

And one of the men said, "I have a scale downstairs in my car. I will go and get it."

Q And what happened then?

A Shortly the man came back with a scale and we put the scale on the floor. Baby weighed the heroin. He

divided it into one pound and a half pound. The one pound he gave to the two men and the half pound to the lady.

Q Now, I assume these two men and the one lady were the same people who had given Baby the money earlier, is that right?

A Yes.

Q What did this heroin look like?

A These heroin is in crystal form like coarse grains of sand.

Q Since that time have you found out anything about the two men who received the pound of heroin?

A I know.

Q What have you found out about those two men?

A One of them is an informer and the other one is a drug agent.

THE COURT: Are you going to another subject? If you are, it is a convenient point to take our morning recess.

MR. KAUFMAN: Just one more question, your Honor.

THE COURT: All right.

Q At the time of this transaction, did you know that agent was a drug agent?

A I don't know.

MR. KAUFMAN: All right.

THE COURT: Before we go I will get some information and then make an announcement after the recess.

We will take our mid-morning recess now.

(Recess.)

(In open court, jury present.)

xx DIRECT EXAMINATION (Continued)

BY MR. KAUFMAN:

Q Mr. Or, did there come a time when either of those two men, the informants or the undercover agent, asked you if you could get more heroin?

A Yes.

Q And how much -- who asked you this?

A The informer.

Q And how much did he want?

A He wanted two pounds.

Q What did you do?

A I told him "If I find somebody who has it I will let you know."

Q And did you find somebody who had it?

A Yes.

Q Who did you find?

A I went to look for Lam Kin.

Q And about when was this?

A About the latter part of December 1972.

Q And where did you go to find Lam Kin Sang?

A I went to the gambling club.

Q And did you have a conversation with Lam Kin Sang?

A Yes.

Q What conversation did you have with him?

A I asked him, "Do you have any heroin," he said, "Yes."

Q Did you say anything else?

A I said "What is the price." He said, "The price is the same."

Q How much heroin did you ask him for?

A I asked him for a pound and a half.

Q When you say the price was the same, what was that price?

A 16,500 for a pound and a half.

Q Did you get $16,500?

A Yes.

Q How did you get it?

A After I had that conversation with him and went back to my apartment. Very late that night somebody came to see me.

Q Who came to see you?

A A Puerto Rican by the name of Jose.

Q Did you have a conversation with Jose?

A Yes. He came to the apartment to look for me.

Q What conversation did you have with Jose?

A Jose said he needed half a pound right away.

Q What did you say?

A I said, "All right, I will try and get it from somebody."

Q Did you have any conversation with Jose about the price?

A Yes.

Q What was that conversation?

A I said $8,000 for half a pound.

Q Did Jose pay you that money ?

A Yes, he gave me the money right away.

Q That is $8,000 toward the $16,500? Where did you get the rest?

A I had a few thousand of my own money. I went down to Chinatown to borrow $4,000 more.

Q That is how you got the $16,500?

A Yes.

Q Now you say you promised a half pound to Jose? Is that right?

A Yes.

Q Were you also trying to get two pounds for the undercover agent?

A Yes.

Q That is a total of two and a half pounds, and yet you had agreed to get just one and a half pounds from Lam. Where was the additional pound coming from?

A There is a person by the name of Tommy who promised to give me the pound first, and then I paid him the money later.

Q Did you eventually get that pound of heroin from Tommy?

A Yes.

Q Once you had the $16,500 what did you do?

A I went down with Jose to his car and we drove to Chinatown to look for Mr. Lam.

Q Did you find Mr. Lam?

A Yes, I found him.

Q Where was that?

A At the gambling place.

Q Did you and Jose go into that gambling place?

A No.

Q What happened?

A We went down to Chinatown. Jose parked the car and waited there and I brought the money to go into the gambling club.

Q What happened when you got into the gambling club ?

A I got to the gambling club; I gave the money to Mr. Lam.

Q Where was this in the gambling club?

A A small office in the gambling club.

Q What happened after you gave the money to Lam?

A He received the money, he put it aside, and he instructed me to wait for him at the street corner.

Q Did you leave that room, the gambling club, then?

A Yes.

Q Was Lam doing anything as you left?

A Again I saw him lift the telephone, and I closed the door and left.

Q Where did you go?

A I went to wait at the corner of Canal Street and Mott Street.

Q What happened at that location?

A After a short while I saw him approaching me.

Q Who?

A Mr. Lam.

Q What happened?

A He walked across the street and entered the building across.

Q And what did you do?

A I followed him.

Q What happened?

A He went up the stairway to the third floor, he picked up the package at the corner, he gave it to me.

Q What did you do?

A After I took the package I went back to Jose's car. Then I went back to the apartment.

Q Which apartment?

A My apartment.

Q And what did you do?

A I opened the package after I got back. I saw there were two packages inside. When I weighed it, the contents came to three pounds.

Q You only ordered a pound and a half, though?

Is that right?

A Yes.

Q So you had three pounds of heroin plus the pound that you received from Tommy? Is that right?

A Yes.

Q Can you tell us how you disposed of those four pounds of heroin? Tell us who got what heroin.

A At that time I gave a half pound to Jose.

Q The half pound that you gave to Jose, which heroin was that?

A From Mr. Lam's lot.

Q Continue.

A I divided it up and I put the rest away.

Q Eventually how did you dispose of that heroin?

A That package after I gave him the pound and a half I put them aside for my own use and then I put the rest away.

Q Whom did you give a pound and a half to?

A I gave half a pound to Jose, I took some out for my own use; the rest I put aside.

Q Why did you put it aside?

A I was figuring on the next day calling the two persons for them to come and get the goods.

Q What I want you to tell us, who got the rest

of that heroin after you gave the half pound to Jose?

A I put aside the rest.

Q I know you put it aside. Eventually there came a time when you disposed of it? Is that right?

A The following evening I called those two men and they came to see me.

Q By two men, whom are you referring to?

A The informer and the drug agent.

Q What did you do when you saw them the next day?

A They gave me the money.

Q How much did they give you?

A $23,000.

Q What else happened?

A After they gave me the money the informer said he was not feeling well, could he wait in my apartment. I went with the agent to his car. Since Tommy promised me the one pound, we went to get the one pound. We drove in his car up to 7th Street to get that and then we came back to the East Broadway apartment.

Q So what you are saying is then, after the agent gave you the money, you and he went to get the pound that Tommy had promised you? Is that right?

A Yes.

Q Do you remember what that pound was contained in?

A That pound was in small plastic bags, in half ounce lots.

Q What were those small plastic bags containing, if anything? Were they inside anything?

A They are the crystal heroin.

Q You don't understand. You say the heroin is in these small plastic bags? Is that right?

A Yes, in small packages.

Q Now, were these small packages inside something else ?

A In the bag is the heroin.

Q Were these small plastic bags lying around loose?

A They are all sealed up.

Q Were they in any package?

A In a box that had -- like the Marlboro, a box that contains Marlboro cigarettes.

Q One little box of cigarettes or something else?

A A carton of cigarettes. There is no cigarettes in there, but these things are in there.

Q That was the pound that you got from Tommy?

A Yes .

Q What happened after you and this undercover policeman went back to the apartment?

A The agent and I went to the East Broadway apartment to get the goods.

Q To get what goods?

A We went up to that apartment, we delivered the parcel of the pound and a half and also opened up the package from Tommy. There were sixteen packages.

Q You say the parcel contained the pound and a half? What parcel is that?

A That is the goods from Mr. Lam.

Q But I thought you had said that you received three pounds from Mr. Lam.

A Yes.

Q Did there come a time when you gave any heroin to the undercover agent?

MR. O'ROURKE: Your Honor, may I interrupt at this point with respect to the term, "undercover agent"? I would ask that either he be named or he be described, so that the witness and Mr. Kaufman are thinking of the same person.

Q By what name did you know this policeman at the time of this transaction?

A He just told me his name is Carlo.

Q Did there come a time when you eventually gave heroin to Carlo with respect to this transaction?

A Yes.

Q How much did you give him?

A I gave him two pounds.

Q Two pounds? That is the amount that he actually previously ordered? Is that right ?

A Yes.

Q Now, of those two pounds, what was the source of those two pounds?

A A half a pound came from Tommy's lot and one and a half pounds from Mr. Lam's lot.

Q As I understand it, you had also given a half a pound of the heroin you received from Mr. Lam to Jose? Is that right?

A Yes.

Q And when added to the one and a half pounds of Lam's heroin that you had given to Carlo, that meant that you still had one pound left over of the heroin you received from Mr. Lam?

A Yes.

Q What did you do with that remaining one pound?

A I sold it to a Caucasian.

Q Do you know who that person was?

A I don't know.

Q You also gave a half pound of Tommy's heroin to

Carlo. What did you do with the remaining half pound that you had received from Tommy?

A I saved it for my own use.

Q Let's focus for a moment on the two pounds of heroin you gave to Carlo. How much did he pay for that?

A $28,000.

Q Of those two pounds that you had given to Carlo, how much of it was heroin you received from Lam?

A One and a half pounds from Mr. Lam's lot.

Q Did you see Lam again after the night that he gave you the heroin?

A Yes.

Q When did you see him again?

A One night later.

Q Where did you see him?

A At the gambling club.

Q Did you have a conversation with him?

A Yes.

Q Tell us about that conversation.

A I went to the gambling club to gamble. When he saw me he said the goods that were given the night before, there was a mistake about that.

Q What else did he say? Did he say what the mistake was?

A I said, "What was the mistake?" He said, "The lot contained three pounds." I said, "I don't know anything about that. You gave me the goods and I turned it over to the other party."

Q Did Lam say how he knew that the lot contained three pounds?

A He said, "That person made a mistake."

Q What person?

A He didn't say which person.

Q Did Lam ask you to do anything with respect to the mistake that had been made?

A He asked me to trace the mistake, and if I cannot trace the goods at least get the money back.

Q Did you agree to do that?

A In front of him I said, "Yes, I will try and telephone to trace it."

Q Did you, indeed, do that? Did you, indeed, try to trace it?

Q Did anything happen to you soon after that?

A Shortly after this I was arrested.

Q And was that as a result of the deals that you just told us about Carlos, the policeman?

A Yes.

Q And the sentence you are now serving is the result of that arrest?

A Yes.

Q Did you ever know from whom Lam was getting his heroin, the heroin that you bought from Lam?

A I do not know.

Q I believe you said the last time you spoke to the person you know as Wing Chong, the defendant, was soon after reported and you asked Wing Chong if he could get you any more heroin?

A Yes, I have asked him.

Q Since that time until today, have you seen or spoken with the defendant in that period of time?

A No, we never -- we did not speak to each other.

MR. KAUFMAN: No further questions, your Honor.

MR. O'ROURKE: May we approach the bench.

THE COURT: Yes.

(At the side bar.)

MR. O'ROURKE: Mr. Gottlieb just delivered to me

during the break, quite a bit of 3500 material.

A I would need some time to look at it.

MR. KAUFMAN: No, your Honor, that 3500 material was with respect to future witnesses. I gave Mr. O'Rourke the 3500 material with respect to this witness last night.

MR. O'ROURKE: All of it?

MR. KAUFMAN: All of it. The material I left on your desk is the 3500 material for Carlos, the policeman, and for Agent Jack Toal.

MR. O'ROURKE: How about all of it?

MR. KAUFMAN: That is what I gave you last night.

MR. O'ROURKE: Some of that material you gave me just now makes reference to Or. That is the point.

MR. KAUFMAN: In that it deals with the undercover transaction.

MR. O'ROURKE: Correct.

THE COURT: But it is not in the 3500 material relating to this witness. You are only entitled to 3500 material with respect to the subject matter of this witness' direct testimony. You say you gave it to him last night?

MR. KAUFMAN: Correct.

THE COURT: What is the problem?

MR. O'ROURKE: Another problem is, your Honor, I ordered daily copy which I haven't had an opportunity

to review with respect to this particular witness.

THE COURT: It isn't ready. You couldn't possibly review it.

MR. O'ROURKE: I understand it is being prepared from 10 o'clock this morning.

THE COURT: There is a problem here because I have got motions on this afternoon.

MR. O'ROURKE: I know.

THE COURT: There is no reason why you can't go forward. There is very direct testimony here.

MR. O'ROURKE: I would like to look at it before I cross examine.

THE COURT: You couldn't possibly get it until tomorrow morning.

MR. O'ROURKE: They said today.

THE COURT: I am not going to put off all the motions with lawyers coming from Washington. That is an unfair request on your part.

MR. O'ROURKE: Okay.

(In open court.)

xx CROSS EXAMINATION

BY MR. O'ROURKE:

Q Mr. Or, will you speak up so Mrs. Moy can hear you, please?

A Yes.

Q Within the last two weeks, have you been incarcerated at the same place where Mr. Lam has been incarcerated?

A No.

Q Have you talked to him within the last two weeks?

A No.

Q Have you seen him within the last two weeks?

A Yes.

Q With respect to -- withdrawn.

Did you keep any notes or memoranda with respect to what you just testified to?

A No.

Q Is all your testimony based on your recollection?

A Yes.

Q Did anybody show you any papers or photographs or any exhibits before you came to Court?

A Yes.

Q What was shown to you?

A Photographs for me to recognize.

Q When were they shown to you?

A A week before.

Q Did they show a photograph of a man you called

Wing Chong?

A Yes.

Q Were you told that he would be the only non-Caucasian man seated at a table with a lady interpreter?

A Yes, he's there.

THE COURT: That's wasn't the question. Repeat the question.

(Question read.)

A No.

Q When did you first notify the authorities that you wanted to cooperate?

A Last year.

Q Do you know the month?

A I'm not very clear. It seems like April.

Q Did you notify them, or did they come up to see you?

A They came to the prison to interview me.

Q At that time did they have photographs of Mr. Lam?

A No.

Q Had they come in response to any letter that you had written or any communication that you had delivered?

A No.

Q How many men came to see you?

A Two persons.

Q And how many times did they visit you?

A They came to see me once and asked if I would like to cooperate with the Government, and I said I would like to.

Q How long did they talk to you on that occasion?

THE INTERPRETER: He didn't understand the question. May I ask him again?

MR. O'ROURKE: Sure.

A About one hour.

Q Did they ask you to write down on paper the whole store, everything you knew?

A They have made such a statement.

Q How long ago was it that the photographs of Wing Chong were shown to you?

A About a week something ago.

Q Was that in Mr. Kaufmann's office?

A Yes.

Q How many pictures were you shown at that time?

A They just showed me a picture of the person Wing Chong and asked if I know him.

Q Were you asked the questions in Mr. Kaufman's office that you were asked here today?

A Yes.

Q And how many times did you speak to Mr. Kaufman?

A Many times.

Q And was the agent seated at the table next to Mr. Kaufman present?

A Sometimes he is there and sometimes some other agents are there.

Q When was the last time you spoke to them before testifying today?

A Last Saturday.

Q Can you tell us when you first met Mr. Lam?

A Between May and June of 1972.

Q How do you recall it as being between May and June?

A It is approximately that time when I came back to New York that I met him.

Q Where did you come from?

A From Cleveland, Ohio.

Q And were you arrested in Cleveland, Ohio?

MR. KAUFMAN: Objection, your Honor.

THE COURT: Objection sustained.

Q Were you convicted in Cleveland, Ohio, for drug violations?

A No.

Q And did you live there with a man named Kwok Lee?

A No.

Q Did you share an apartment with Mr. Kwok Lee in Manhattan?

A Yes.

Q Is Kwok Lee a supplier of heroin?

A I am not clear.

Q Did Mr. Kwok Lee- Kwok K. Lee ever supply you with heroin?

A Yes.

Q And he was living with you at the time these events occurred, isn't that correct?

A At that time I was staying with him. When he had heroin he invited me to partake some of it.

Q When did you make your first purchase of heroin from Mr. Lam?

A The summer of 1972.

Q And the second time that you bought from Mr. Lam; when was that?

A In December.

Q In the summer of '72, when you made the first purchase from Mr. Lam, how long had you known him?

A I have not known him very long and I frequently had the gambling place all the time.

Q And at that time when you first met Mr. Lam,

had you known Mr. Wing Chong?

A No.

Q Where was Lam's gambling place located?

MR. KAUFMAN: Objection, your Honor, only because there has been testimony about two gambling clubs and I think Mr. O'Rourke should specify.

MR. O'ROURKE: Let me rephrase it.

Q The gambling club that you went to; where was that located?

MR. KAUFMAN: Same objection, your Honor.

THE COURT: Overruled.

A What time are you referring to?

Q In December of 1972 when you made the purchase from Mr. Lam.

A The one on Bayard Street.

Q And at that time did you see Mr. Wing Chong?

A Sometimes when I passed his place I saw him in there.

Q And where was his place located in relation to the gambling club?

A It is very close. It is next door.

Q And were you ever in the gambling club at that same time Mr. Chong was?

A I have never seen him there.

Q You went to that club on a daily basis?

A Almost every day. I mostly went there in the evening.

Q For what period of time did you go to the club every day?

A Sometimes a few hours, sometimes all night I go there to gamble.

Q It was always in the vening hours?

A Yes, I usually go there seven or 8 in the evening and sometimes I return about 1 or 2 in the morning.

Q When you went there at 7 or 8 in the evening, did you often see Wing Chong in the store?

A No.

Q Did you ever see him at all in the store in the evening?

A At that time he is not in the shop. He has closed the shop.

Q Do you know what time he closed the shop?

A I don't know. It's in the evening.

Q What time was it when you did see him in the store?

A Mostly during the day.

Q There came a time when you were formally introduced to him by somebody, isn't that correct?

A Yes.

Q Who introduced you?

A Ah Suey.

Q What is Ah Suey's correct name?

A I don't know.

Q How long had you known him at the time he introduced you to Mr. Chong?

A Not very long.

Q Where did this introduction take place?

A During the time of the first transaction.

Q With Mr. Lam? The first transaction with Mr. Lam?

A No, the first transaction with Wing Chong.

Q When was that?

A Near the end of August of 1972.

Q Did that introduction take place in Mr. Chong's shop?

A No, it is in my car.

Q Where was your car located at the time?

A Parked on the side of the street near his shop.

Q Did Ah Suey say how long he had known Mr. Chong at the time?

A He did not tell me.

Q This introduction took place sometime after you

had been attending Mr. Lam's gambling club, isn't that correct?

A Yes, I went to the gambling club all the time.

Q How long had you known Ah Suey in December of '72?

A At that time Ah Suey was not here.

Q How long had you known him in August of '72?

A A few months.

Q Had you purchased any heroin from Ah Suey?

A No.

Q Can you tell us how many times you have purchased heroin from different people?

A I'm not clear.

Q Can you remember the names of the people that you purchased heroin from, all of them?

A I remember some of them, not many.

Q Do you remember the months and dates of those purchases?

A I do not remember.

Q Did you tell the authorities about anybody else from whom you had purchased heroin?

A Yes.

Q How many people?

A There is one more.

Q Did Mr. Suey introduce Wing Chong to you as Wing Chong or O Ing?

A When he introduced he said, "This is O Ing."

Q I believe you stated that when you introduced Wing Chong you were just out of jail? Is that correct?

A No.

Q Was Ah Suey just out of jail?

A He was out of jail for some time.

Q Did Ah Suey tell you at that time he could get heroin on credit?

A Yes.

Q At that time you knew Mr. Lam, did you not?

A Yes.

Q You had purchased some heroin from him before meeting Ah Suey?

A Yes.

Q At that time did you tell Ah Suey that you had your own sources of purchasing heroin?

A No.

Q I believe you stated that you and Ah Suey went into Mr. Chong's shop together?

MR. KAUFMAN: Objection as to which occasion Mr. O'Rourke is talking about.

THE COURT: It may be any occasion.

Q Did there come a time when you and Ah Suey went to Mr. Wing Chong's shop?

A Yes.

Q Did you go into the store with Ah Suey?

A No.

Q At that time you had already known Mr. Chong? Is that correct?

A After the first transaction I knew him as N.

Q The first?

A The first transaction I had known him.

Q I am referring to the time that you went to the area with Ah Suey and he went into the store alone?

MR. KAUFMAN: I object, your Honor, because there has been testimony of that happening more than once and without being more specific the witness can't possibly

know what occasion Mr. O'Rourke is referring to.

MR. O'ROURKE: The very first.

THE COURT: Put your question so we can be more specific, please. Let's reframe the question.

Q The first time that you and Mr. Ah Suey went to Mrs. Chung's area, where his shop is located, did you go in the store with him?

A No.

Q Why didn't you go into the store with him?

A I just waited for him outside.

Q Can you recall the date, the exact date that you drove up to 1504 Inwood Street in the Bronx for the first time?

A I am not clear. It has been too long.

Q Did Mr. Chung drive up in the same automobile with you and Mr. Ah Suey?

A The first time, yes.

Q Can you recall whether or not there was any conversation in the automobile on the way up to the Bronx?

A There was not much said and I do not remember.

Q Did that trip take forty minutes?

A I do not know the time.

Q Now, at the laundry factory in the Bronx you stated that you saw Mr. Chung get out of the car and take

a package from somebody?

A Yes.

Q Did you see whom he took the package from?

A I'm not clear about that person.

Q How far away were you from Mr. Chung and the man that gave him the package?

A The car was parked over twenty something feet away.

Q Did you have a clear look at his face?

A I did not have a clear look. I only glanced at him. Now that the time has elapsed for so long, I won't recognize him.

Q Did you see the package handed to Mr. Chung?

A Yes.

Q Can you describe the package by its color and its dimensions?

A I am not clear on that.

Q Are you sure you saw a package?

A Yes.

Q Do you have any idea of the dimensions?

A Like the size of a paper bag.

Q Did Ah Suey put it inside his pocket?

A No.

Q What did he do with it?

A He put it on the side of the car.

Q The glove compartment?

A No.

Q Did there come a time that you lost sight of that package for a minute or two?

A I just saw him give the package to Ah Suey; Ah Suey put the package on the floor of the car and then we drove on.

Q Did Ah Suey go up to the apartment with the package while you remained and parked the car?

A After we got back we parked the car and then -- I parked the car and then we went up together.

Q With that particular package, what did you do and Ah Suey do after you got up into the apartment?

A After we got back we opened the package and then we waited and we took some out for our own use and put the rest aside.

Q Was Kowk Lee present when you got back with the package?

A He was not there.

Q He was living in the apartment at the time? Is that correct?

A Who?

Q Kwok Lee.

A No.

Q Where was that apartment located? What was the address?

A 95 Orchard Street.

Q When you cooperated with the authorities did you tell the authorities anything about Kwok K. Lee?

A No.

Q You didn't tell them facts concerning everybody with whom you had transacted heroin?

A Things that they did not ask me I didn't talk about. Kwok Lee and I were only friends and we were mutual users of heroin.

Q You didn't tell the authorities anything concerning people who are your friends? Is that correct?

A I didn't mention it because I didn't think it was important. He only gave me some to use and I gave him some to use.

Q Is there anything that you didn't mention with respect to this case that you think unimportant?

A I have told the Government all the things I know and time has elapsed quite awhile and there are things I don't remember.

Q Is there much of your testimony today that you have difficulty in recalling?

A There are some things. When you mention it I remember, there are some things I don't remember.

Q When you talked to the prosecutor was your memory refreshed by looking at any papers?

A They didn't show me anything. They asked me questions and refreshed my memory.

Q Was there an interpreter present when these conversations were being held?

A Yes.

Q Now, what eventually happened to the rest of the heroin that you and Ah Suey brought back from the laundry the first time?

A I sold some of it and we saved part of it for our own use.

Q Whom did you sell it to?

A I sold them to a Puerto Rican.

Q Do you know their names?

A Yes.

Q The second transaction that you had with Mr. Chung, when did that occur?

A After we sold the goods we received the money a few weeks later.

Q Two? Three?

A Two or three.

Q With respect to the first heroin that you sold to the two Puerto Rican gentlemen, did you tell the authorities the names of those two men?

A Yes.

Q Now, your second transaction with Mr. Chung, do you know who initiated that transaction?

A It was Ah Suey, who made the arrangement, and after the arrangements were made, then toward evening we went to pick up the goods.

Q Was that transaction completed before Ah Suey was deported?

A No.

Q How do you know he was deported?

A He was staying with me. They asked him to leave, so he had to leave.

Q Did he tell you that he was leaving?

A He told me these few days he would have to leave.

Q Was he arrested by the immigration authorities?

A No. He left by himself.

Q Did you leave with him to go to the air port or to the dock?

A No.

Q Do you know the date of that?

A I do not remember.

Q Did you know where he was deported to?

A He went back to Hong Kong.

Q Did he indicate that he might communicate with you by letter after he got back to Hong Kong?

A No.

Q Do you have an address for him in Hong Kong?

A No.

Q Did the authorities show you photographs of Ah Suey?

A No.

Q Did they ask you for any description of Ah Suey?

A They did not talk about him.

Q Did they ask you anything about Ah Suey?

A Yes.

Q After Ah Suey was deported, you met Mr. Chung on Bayard Street and you had a conversation with him?

A Yes.

Q Was this the first time that you had seen him since that second transaction at the laundry?

A No.

Q How many times had you seen him since the second transaction at the laundry and the time that you had the conversation with him on Bayard Street?

A About a few weeks -- maybe one month.

Q Now you asked him at that time, "Do you have any more heroin"?

A No. Are you asking me the third transaction, the transaction for the third time?

Q The time after you had been at the laundry for the second time.

A That would mean the third time. The contact was made by Ah Suey.

Q Were you at that laundry factory with Ah Suey three times?

A Every time we went to get the heroin I went with Ah Suey.

Q Were you at the laundry factory three times with Ah Suey?

A Yes.

Q After the third time Ah Suey was deported?

A Yes.

Q After that you met Mr. Chung at Bayard Street and had a conversation with him?

A Yes.

Q What did you say to him and what did he say to you?

A I went to the shop to look for him and ask if he has any more goods.

Q Did you say, "Do you have more goods"? Or did you say, "Do you have any more heroin"?

A I said, "Do you have any more thing," and that would take the place of heroin.

Q How do you recall you said, "thing" instead of heroin?

A The people that deal in such kind of things all talk like that.

Q During this period of time had you made a trip to Canada?

A No.

Q When you asked Mr. In, Mr. Chung, if he had any more thing, was that the first time you used that expression in front of him?

A That is not the first time that I used that word.

Q Is that the first time you used that word directly to Mr. Chung?

A Yes.

Q Did he say anything other than "No"?

A He said, "I don't have anything now."

Q Was that the end of the conversation?

A He asked me about the money with Ah Suey. I thought Ah Suey had paid him.

Q Did Ah Suey tell you that he had paid him?

A He didn't say so. He just said he was going to give the money to Wing Chung and then I didn't see him any more.

Q Did you give that money to Ah Suey to give to Wing Chung?

A Yes.

Q There came a time after that that you had a transaction with Mr. Kin Lam? Is that correct?

A Who is Kin Lam?

Q Mr. Lam.

A It was quite awhile later.

Q How much time elapsed after you had the conversation in which Mr. Chung told you he had no thing before you met Mr. Lam?

A It was a long time, about two months.

Q And what month would that put it in?

A When I dealt with Mr. Lam it was in December.

Q How do you recall it was December?

A Because the record shows that I dealt with him in December,

Q What records are you referring to?

A The indictment, the charges that he was indicted with stated that it was December.

Q That who was indicted with? Which indictment are you referring to?

A The one that indicted me.

Q Did you read that indictment recently?

A No.

Q When did you last read it?

A A long time ago.

Q At the time that you were tried you took the stand and testified in your own defense, did you not?

A Yes.

Q You told an entirely different story than you told here today? Isn't that correct?

A I am not clear.

Q When you testified on your own trial you testified and you denied all of the events that you were charged with? Isn't that correct?

A When I testified I said I was not guilty.

Q You said what?

A I was not guilty.

Q Weren't you on the witness stand at that trial for 45 minutes to an hour?

A I don't know. It was a long time.

Q You can't remember --

MR. KAUFMAN: Your Honor, may we approach the

side bar for a minute?

THE WITNESS: If you want to know all the details, you can look at the records.

THE COURT: Members of the jury, when these so-called side bar conferences take place, they pertain to matters of law, with which you have no concern, since you are the sole judges of the facts.

[At the side bar:]

MR. KAUFMAN: I don't know how deeply Mr. O'Rourke intends to go into this and I don't know if Mr. O'Rourke has read the transcript of Danny Or's testimony. I read it last night. He admitted all the transactions and naming Lam Kin as his source, along with somebody else, admitted that he sold heroin to the policemen, and in my conversations with Mr. Goldberg, who was Mr. Or's attorney at the time, the defense was entrapment. Quite the contrary, Mr. Or did not deny the transactions that he has testified to here today, and if Mr. O'Rourke wants to go into this, I am going to be forced to introduce the transcript of that trial to contradict.

MR. O'ROURKE: I had not planned to go much further.

THE COURT: You are opening the door to it if you proceed. He would have a right to show what the

actual testimony was.

MR. O'ROURKE: I intend to stop here.

[In open court.]

Q Where did you meet Mr. Lam?

A At his gambling club.

Q Did you have a conversation with him relative to the purchase of heroin?

A I went to the gambling club every day and he asked me if I want any goods.

Q Was anybody present when he asked you if you want any goods?

A We just talked in private.

Q Did you tell him that you wanted some goods?

A Yes.

Q Did you give him any money at that time?

A After we agreed, then I went to get the money.

Q Did you agree right then and there?

A Yes.

Q At that time had you any other heroin in your apartment?

A A small amount for my own use.

Q When you returned to the gambling place did you give the money to Mr. Lam?

A Yes.

Q And after that what did he do?

A After I handed him the money we went into the little office in the gambling club, he looked in the package, and then he put it aside.

Q Did he give you the package?

A He told me to wait for him somewhere else.

Q Where did you wait for him?

A At the corner of Canal Street and MOtt Street.

Q Did he meet you at Canal and Mott Street later on?

A Yes.

Q Had you seen him make any telephone calls that evening?

A As I was leaving his office I saw him lift a telephone.

Q Did you hear him say anything?

A No.

Q How much time elapsed before he met you on the corner?

A I waited a little while, maybe one or two minutes.

Q Did you and he go someplace?

A He indicated for me to follow him, to go across the street to the building across.

Q Did you follow him across?

A Yes.

Q Just the two of you?

A Yes.

Q When you reached the building what did you do?

A I walked with him up a few steps of the stairway. He went up to the third floor to pick up the package, and then he gave it to me.

Q You walked up a few steps. Could you see the third floor from where you were a few steps up?

A Yes, I can see.

Q Did you see him walk up to the third floor?

A Yes.

Q Did you see him meet anybody?

A No. He just went up there. At the corner he picked up the package.

Q Did you see him pick up the package?

A Yes.

Q Could you describe that package in size?

A Like the kind of bag that the restaurants use for take-out orders.

Q Was he able to fit it inside his pocket?

A No.

Q Was there any particular reason why you didn't

walk up three flights?

A No reason. I just waited for him there.

Q Had you ever been into that building before?

A No.

Q After he came down did he turn the package over to you?

A Yes.

Q Did you open it?

A No.

Q Did there come a time eventually when you opened it?

A Yes.

Q Where was that?

A At Baby's home.

Q How much time after you picked it up, how much time elapsed after you picked it up and the time it was opened at Baby's home?

A More than ten minutes.

Q This was in December of 1972? Correct?

A Yes.

Q At that time would it be fair to say that this was about the 20th time in your life you had received a package of heroin from somebody?

A No.

Q How many?

A I am not clear.

Q Do you understand the question?

A When I deal in these things how can I count each time how many times I've done that.

Q You don't remember? Is that your answer?

A I remember that altogether I have dealt with Mr. Lam three times.

Q How did you get to Baby's house from Canal Street? By automobile? Or did you walk?

A After I received the package I walked to Baby's car and then we drove back to the apartment in his car.

Q In Baby's car?

A Yes.

Q And do you know Baby's correct name?

A I don't remember.

Q Is Baby Chinese?

A No.

Q Who was in the car with Baby?

A Just he and I.

Q Did you hand the package to Baby right then and there?

A I handed the package to Baby in the car. He asked me to drive.

Q Did Baby put the package underneath the front seat or in the glove compartment?

A He just put it on the floor in the front.

Q When Mr. Lam handed you the package did you write on it?

A No.

Q This package was a brown paper bag?

A Yes.

Q I don't think I got the answer. Did Baby place this package underneath the front seat or in the glove compartment?

A He put it in the front of the seat on the floor where he was sitting.

Q Did you drive the car to his house?

A Yes.

Q Did you park the car on the street?

A When we got to his place we parked downstairs from where he lived.

Q What kind of a car was that you drove?

A An old car.

Q Did Baby live in an apartment house?

A An apartment on Second Street.

Q What floor of the building was the apartment located on?

A I am not clear.

THE COURT: Miss Interpreter, you have answered it, and I am not clear. Is that a correct translation? I have a feeling he is saying, "I don't remember."

THE INTERPRETER: It is an exact literal translation, what I said.

THE COURT: When you say, " I am not clear, do you mean that you are not clear in your own mind or that you did not understand the question, or you don't remember the answer to the question?

THE WITNESS: I do not remember the floor of the apartment, but I remember the building.

Q Did he go up into the building before you did?

A I followed him up.

THE COURT: We will suspend for a moment . Suppose counsel come up.

[A discussion was had at the side bar off the record.]

THE COURT: Members of the jury, I will see you tomorrow at 9:30. Please remember my admonition: Do not discuss the case with anybody nor amongst yourselves, until the case is submitted to you.

[Whereupon, an adjournment was taken to March 26, 1975, at 9:30 a.m.]

* * *

UNITED STATES OF AMERICA

vs. 75 cr 173

SUEY WING NG,

March 26, 1975
9:30 a.m.

(Trial continued. Jury present.)

D A N N Y O R, resumed.

CROSS EXAMINATION

CONTINUED BY MR. O'ROURKE:

Q Mr. Or, were you addicted to heroin in 1972?

A Yes.

Q What was your daily habit?

A Two spoonfuls.

Q And would you tell the jury what a spoon is?

A Like a teaspoon; used about two teaspoons.

Q When did you start using heroin?

A About June of 1972.

Q Was that when you first met Lam Kin?

A No.

Q Was that the first time, June of '72, that you bought heroin from Lam Kin?

A No.

Q And Lam Kin is Mr. Lam, is that correct?

A Yes.

Q How much did it cost you to support your daily habit back in 1972?

THE INTERPRETER: He said, "For my own use."

Q Yes.

What did it cost you moneywise?

A About $200.

Q A day?

A Yes.

Q And did you work at anything during that period of time?

A After I got addicted I did not work.

Q Prior to becoming addicted, did you work at anything?

A I worked in the restaurant before I was addicted.

Q Was that the Hong Kong Restaurant?

A No.

Q When you met the man that you called Wing Chong for the first time, were you addicted at that time?

A Yes.

Q What happened to you when you took heroin into your system?

A I don't know how to describe it.

Q Did it affect your senses?

A Not too much effect.

Q Very little effect.

A Yes.

Q And it didn't affect your memory in any way?

A More or less.

Q How much time elapsed after you first met Ching Wong before you got into the automobile, or he got into the automobile with you and you went to the Bronx?

THE INTERPRETER: Please repeat your question.

MR. O'ROURKE: Perhaps I can rephrase it.

Q There came atime when Ah Suey introduced you to Mr. Ng, is that correct?

A Yes.

Q And you were seated in an automobile at the time, is that correct?

A Yes.

Q Ah Suey, yourself, and Mr. Ng drove up to the Bronx, is that correct?

A Yes.

Q Did the three of you go immediately after the introduction?

A Yes.

Q Who drove?

A I was driving.

Q Did you have a New York State Driver's License?

A Not from New York State.

Q From Ohio?

A Yes.

Q Did you take the test in the English language in the State of Ohio?

A No.

Q Did you take it in the Chinese language?

A At that time my English was not sufficient so I had a friend who was helping me.

Q Did your friend take the test for you?

A Yes.

Q Now before you drove up to the Bronx that particular day had you ever been in the Bronx?

A No.

Q And was it dark when you arrived there?

A Near evening.

Q Well, was it after the sun had gone down?

A It is in the evening -- I am not clear about the time.

Q And was there a sign on the building telling what type of operation took place there?

A I did not look at the sign but I knew that it was the laundry factory.

Q And how did you know that it was the laundry factory?

A Ah Suey told me that it was the laundry factory, and when I looked at it I saw the two words, "Laundry" there.

Q Any other word besides "Laundry"?

A There is a long name on the sign.

Q You had never been there before?

A No.

Q And when you were first interviewed in person by the agent did you tell him that you met Mr. Wing NG at a laundry factory?

A No, the first time when I met him it was in the car.

Q Did you tell him that you went to a laundry factory?

A Yes, I told him that we drove up together.

Q And you had never been to the Bronx, is that correct?

A Yes, that is correct.

Q And in August of '74 that was the time you were interviewed by the agent?

A No.,

Q When were you interviewed by the agent for the first time?

A It was last year because I am not exactly clear about the month. It seemed like April.

Q Did you tell him the laundry factory was in the Bronx?

A No.

Q Isn't it a fact you did not know where it was?

A I knew where it was but at that time I had just received a very traumatic experience with my own sentence, and I could not recall.

Q Were you interviewed immediately after your own sentence or did four or five months pass?

A After quite a few months.

Q You were sentenced in 1973, correct?

A Yes.

Q What month?

A The end of October.

Q And was it in the summer, the following summer that the agent came to the prison?

A It was between Spring and summer.

Q And at that time had you failed to tell him about the laundry factory because you had forgotten about it?

A At that time the interview was concerned mostly with my dealings with Mr. Lam, and during the course of the interview sometimes they show me pictures and things like that, then I recalled about that.

Q Did they show you any pictures of the laundry factory?

A Yes, they did.

Q And you did not tell anything to the agent at this time, did you, that you were at that laundry factory, is that correct ?

A He only showed me the picture about two weeks ago. I had told them about the laundry factory.

Q And were you able to give him the location of that factory at the time he showed you the picture?

A After they drove me to the Bronx location, then I pointed out the building to them.

Q And how many laundry factories in the Bronx did they drive you to before you selected one that you picked out?

A I don't know how many other laundries are there but when we drove there I just pointed out to them that that was the laundry.

Q And the agents took you directly to that spot, is that correct?

A No, when we got there we had to spend over ten minutes going around the neighborhood before I found the laundry factory.

Q And you hadn't seen that factory since December of '72, is that correct?

MR. O'ROURKE: Mr. Kaufman, do you have Government's Exhibit 2?

[Mr. Kaufman hands to Mr. O'Rourke.]

A Ever since the last transaction I have not been there.

Q And that was in December of '72?

A No.

Q When was it?

A I don't remember the exact date.

Q When you drove with the agents to the laundry factory they did not know where they were going, is that correct?

A Yes.

Q You instructed them how to go, the route to take?

A Yes.

Q And what route did you direct them to take?

A I instructed them to go straight up on the FDR Drive. We drove straight up on the FDR Drive up to one hundred something street, and then we took another highway.

Q What is the name of the other highway?

A It seems like Highway 87.

Q Mr. Or, the first time that you went to that laundry were you there more than ten minutes?

A A very short time.

Q And how about the second time?

A The second time is the same. After I parked there, as soon as we received the goods, then we left.

Q And how about the third time?

A The same.

Q And was it towards evening on all three occasions you went to that laundry factory?

A Yes.

Q And on at least one of the occasions was it dark?

A Mostly in the evening -- I am not sure.

Q Were you told that Mr. Ng had worked at that laundry prior to opening his own business?

A I don't know.

Q Well, does that mean you were told, or you were not told?

A Nobody told me.

Q On the day, on the first occasion that you drove up there, at that time had you taken heroin an hour or so before driving up?

A I take it all the time.

Q Have you memorized your testimony since you spoke to the agent in jail last August?

A I'm answering according to what I remember.

Q Are there some things that you remember to do that you didn't remember when you were first interviewed by the agent last August?

MR. KAUFMAN: I object to the reference to August, your Honor.

MR. O'ROURKE: Very well.

Q The first time the agent spoke to you.

A The first time we didn't talk about very much. They said, "If you are willing to cooperate with the Government you try your best to recall all that you can remember."

Q Did he ask you to write anything down?

A They only asked me to make notes of what I can recall.

Q And how long did that interview last?

A About 45 minutes to one hour.

Q And had somebody at the prison told you that if you cooperated with them, your sentence would be reduced?

A The first time nothing like that was mentioned.

Q Did anybody at the prison tell you that your sentence would be reduced if you cooperated?

A Somebody said something like that.

Q And at the prison did a message get to you that you should be quiet or something would happen to you?

A Nobody said anything.

Q Can you recall after your third trip to the laundry factory whether or not Mr. Ng drove back with you and Ah Suey?

A No.

Q Had he driven up to the laundry factory with you and Ah Suey?

A No.

Q At that time, did you take the same route, route 87?

A I followed the road. It went the same way.

Q The same way as the first time?

A Yes.

Q How much time elapsed between the first time and the third time?

A Over eight months.

Q When you arrived there the third time, was Mr. Ng standing out on the street?

A When we arrived at the laundry factory the third time he was already there. Ah Suey got out of the car to go to meet him.

Q Was Mr. Ng inside the building or outside?

A I do not remember.

Q How long did you stay there before you left?

A A very short time.

Q Did Mr. Ng come back with you?

A No.

Q Where did you and Ah Suey go?

A We returned to my apartment.

Q Did you see Mr. Ng hand a package to Ah Suey?

A I do not remember.

Q Did Ah Suey and you drive back to your apartment?

A Yes.

Q And what did you do after you got to the apartment?

A After we got back to the apartment we opened the

package.

We waited. We put some aside for our own use and the rest we put aside.

Q Did Ah Suey have any other packages on him when you and he left your automobile to go into your apartment?

A No.

Q The package on this third occasion; did he put it in his pocket?

A No, not possible.

Q Did you sell that heroin that you picked up on your third visit to the laundry factory?

A Yes.

Q Who did you sell it to?

A It was sold to somebody on the street.

Q How much did you receive for it?

A I do not remember.

Q Did you sell it, or did Ah Suey sell it?

A I sold it.

Q And did you pay Mr. Ng for that heroin?

A I have never paid him the money. It was always Ah Suey who did.

Q After the third visit to the laundry factory, how much time elapsed before Ah Suey was deported?

A Not very long.

A Not very long.

Q Would it be a day or two, or two or three weeks?

A It could be between one or two weeks.

Q During that time, did you ask Ah Suey if he paid Mr. Ng?

A After I have sold the thing, we divided the money and he was the one that was supposed to be responsible to pay the balance.

Q How much was his share of what you divided?

THE INTERPRETER: Beg your pardon? Did you ask how much was his share?

MR. O'ROURKE: Ah Suey's share.

A I do not remember.

Q At that time where was your apartment located?

A At that time the apartment was located at East Broadway near the corner of Pine.

Q What was the address?

A I do not remember the exact address.

Q How long had you lived there?

A A few months.

Q And where was that apartment located in relation to Lam Ping's gambling house on Bayard Street?

A Quite a distance.

Q Five or six blocks?

A I am not clear on that. It would take a few minutes to walk there.

Q And didn't you patronize Lam Ping gambling shop on Bayard Street just about every day?

A Yes, almost every day.

Q And Mr. Ing's shop was right next to the gambling place?

A Yes.

Q And after the third pickup at the laundry factory when you went to Lam Ping on a daily basis, did you drop in to see Mr. Ing nextdoor?

MR. KAUFMAN: Objection, your Honor.

THE COURT: Why?

MR. KAUFMAN: It contains a multiple set of facts which should be asked separately.

THE COURT: Separate the question, please.

MR. O'ROURKE: Yes.

Q After the third time you went to the laundry

factory did you go to Lam Ping gambling place on Bayard Street at any time?

A I go frequently.

Q And did you go the day after you picked up -- the package was picked up at the laundry factory for the third time?

A You mean the gambling factory -- the gambling club?

Q Yes .

A Yes.

Q And on that next day did you walk into Mr. Ing's shop and say anything about the quality of the goods that you had purchased?

A No.

Q And did you go to the gambling club the next day?

A I go all the time. I go almost every day.

Q And on the second day did you see Mr. Ing in the club?

A I did not see him.

Q On the second or third day did Mr. Ing come and ask you for the money?

A No, he did not ask me for money.

Q When for the first time did you see him after the third meeting at the laundry factory?

A After the thing was sold and settled and after Ah Suey left, then I went to the shop.

Q Yes, and when was that?

A I do not know, and I cannot remember exactly.

Q Do you recall the month?

A I do not remember.

Q And did you have a purpose in going to Mr. Ing's shop at that time?

A Yes .

Q And what was that purpose?

A At that time I don't have anything on hand and I asked him if he has any more goods.

Q And you had just left Lam Ping gambling shop, is that correct?

A No.

Q Had you been in Lam Ping gambling shop that day?

A I go there all the time.

Q And you had previously bought heroin from Lam Ping, is that correct?

A Yes.

Q And did you ask him if he had any heroin?

A There was a time when I asked him if he had any. He answered he didn't have any at that time, and he said, "When I do have I will let you know."

Q The same day that you asked Mr. Ing, "Do you have any heroin"? And he said, "No," had you asked Lam Ping the same question?

A No.

Q And you had known Lam Ping a longer period of time than you had known Mr. Ing, is that correct?

A Yes.

Q Now, when you asked Mr. Ing did he have any heroin, were there customers or employees in his laundry?

A I do not know.

Q What time of day was it?

A In the afternoon.

Q What day of the week?

A I am not clear on the date. I don't even remember the month.

Q Before you asked Mr. Ing if he had any heroin had you inquired as to whether or not he had been paid by Ah Suey?

A No, I did not ask him because I thought Ah Suey had paid him.

Q And did Mr. Ing say anything with relation to being paid?

A He had spoken about the money. At that time I said the money was given to Ah Suey but he had left and

I didn't know.

Q Did he say anything further?

A Not much that he said.

Q And what was the agreed price of that package that you obtained from the third trip to the laundry factory?

A I do not remember the exact price.

Q There came a time when you left Mr. Ing's shop.

A After we had spoken then I left the shop.

Q And did you walk nextdoor and go into the gambling house?

A Yes.

Q And was Lam Kin there?

A He was not there.

Q Did there come a time after that when you had asked Lam Ping to get you some heroin?

A I had asked him such a thing.

Q When was the first time that you asked him after Mr. Ing told you that he had no more heroin?

A When I spoke to Mr. Lam about the heroin, it was a long time ago. I didn't ask him any more.

Q You went into Mr. Ing's shop at one time and asked him did he have any heroin, and he replied, "No"; is that correct?

A Yes.

Q And how many days or weeks after that passed before you made your next purchase of heroin from anybody?

A About a month or more later, when I asked Lam Kin for heroin.

Q And what month would this be? What month of the year?

A December.

Q And what month was it that you made your last trip to the laundry factory?

A About October.

Q During that one-month period, between the time Mr. Ing said he had no heroin and you asked Mr. Lam for heroin, weren't you going to the gambling club every day?

A Yes.

Q And you were using heroin every day?

A Yes.

Q And the people that you lived with, Kwok Lee and Ah Suey were using it every day?

A Yes.

Q And you made many purchases during that one-month period, isn't that a fact?

A No.

Q Where did you get your heroin for your own use during that one-month period?

A When I want to use it and I didn't have any, I go down to the street to buy from people.

Q And on how many occasions did you go down to the street during that one-month period to buy heroin?

A Many times -- I don't remember how many.

Q And you bought it off many people, is that correct?

A Quite a few people.

Q Now, there came a time after that that Mr. Lam agreed to sell you heroin, is that correct?

A Yes.

Q And before that had you negotiated with somebody to buy it off you?

A Mr. Lam asked me if I want to buy any heroin. I said, "Yes". Then I went to look for somebody who wants to buy it.

Q Did you use it to speak to Mr. Lam on a daily basis while you were at the club?

A No.

Q Did you talk to him at all?

A I went there mostly to gamble. When we did see each other we did greet each other and had some casual words.

Q Did he ever tell you that the man running the

laundry nextdoor sells heroin?

A He did not tell me that.

4.2 Q Now, when he offered to sell you heroin, what did you do?

A I told him that I will go and look for somebody who wants to buy, then I get the money and then I go and get the goods.

Q Would this be in January of 1973?

A No.

Q What month was it?

A December of 1972.

Q December of 1973?

A 1972.

Q How do you recall it was December?

MR. KAUFMAN: I object, your Honor. This has been asked and answered.

THE COURT: I think it has. It seems to me that you have almost reached the outer limits of cross-examination. You have gone over this any number of times.

MR. O'ROURKE: All right.

Q And when you spoke to him in December of 1972, eventually were you able to get a buyer for the heroin he was going to give to you?

THE COURT: Who is "he" in this case, please?

MR. O'ROURKE: Mr. Lam.

A Yes.

Q And did Mr. Lam give you the heroin right there in the gambling club?

A No.

Q What did he do?

MR. KAUFMAN: I object again, your Honor. On cross-examination yesterday Mr. O'Rourke went through this.

THE COURT: I think you are going over matters that you went through yesterday. I will let him answer this question but I must ask you to refrain from repeating. I think you have really gone over matters that you went over yesterday.

MR. O'ROURKE: Yes, your Honor. Just one more question.

Q Did Mr. Lam make any telephone calls in your presence on that particular day that you picked up the heroin?

A That day when I brought him the money, and as I was leaving the office I saw him go to the telephone but I did not know who he was calling.

Q Do you recall that he lifted the telephone.

A Yes.

Q After that, did you and Baby go someplace?

MR. KAUFMAN: Same objection, your Honor.

THE COURT: I will let him answer, but really, Mr. O'Rourke, I am going to ask you to please bear in mind that you did cover some of these matters yesterday and you are going over the same thing again.

MR. O'ROURKE: I will try not to be repetitious. May he answer that question, your Honor?

THE COURT: You have been over a half hour on that now. Any new matter I will allow you to go into. Please put the question to him.

Q Did you and Baby go to Canal Street together?

A No.

Q After you left Canal Street the first time, 179 Canal Street, what did you do with the package?

A After I received the package, I crossed the street and I walked to Baby's car.

Q Then did you go back to your apartment?

A No.

Q Whose apartment did you go to?

A Baby's apartment.

Q Did there come a time after that when you made

another purchase from Mr. Lam Kin?

A Yes.

Q Between the first purchase and the second purchase, had you seen Mr. Ng?

A No.

Q Mr. Or, do you have any difficulty remembering any of these details?

A I'm recalling everything to the best of my ability.

Q Since yesterday, have you discussed this case with anybody?

A No.

Q Do you know Jose's real name?

A I do not know.

Q You mentioned in your direct testimony an informer; is that correct?

A Yes.

Q Do you know the informer's name?

A I know his name as Manjo.

MR. O'ROURKE: Thank you.

THE COURT: Any redirect?

MR. KAUFMAN: Yes, your Honor.

REDIRECT EXAMINATION

BY MR. KAUFMAN:

Q Mr. Or, you say you know the defendant by the name of Wing Chong, is that correct?

A Yes.

Q Did you ever know him by the name of Ah Suey?

A I did not know.

Q You did not know him by that name?

A I do not know.

Q When the agents first came to talk to you when you were in jail, who was it that they were asking you about, in particular?

A We spoke mostly about the transactions with Mr. Lam.

Q Did you tell the agents everything that you remembered about those transactions with Mr. Lam?

A Yes.

Q At any time, either when the agents visited you or when you were interviewed in this building, were you ever asked about somebody named Ah Suey?

A Yes.

Q What did you say with respect to that? Did you say that you knew somebody named Ah Suey?

A I answered that I don't know the person because

I have never heard of that name before.

Q And then did there come a time apparently when you were shown a photograph of the defendant?

A Yes.

Q About when was that?

A About two weeks ago.

Q Did you recognize the person in that photograph?

A Yes.

Q Who was that person?

A It was Wing Chong.

Q Is that the defendant here on trial?

A Yes.

Q Was it at that time for the first time that you told the authorities about these transactions that you and Ah Suey had with Wing Chong up in the Bronx?

A Yes.

Q In the last week or two when you and the agents drove up to the Bronx, you say you took the FDR Drive to a street and then on the route 87; is that correct?

A Yes.

Q Did you give those directions to the agents who were driving or did the agents just go that way on their own?

A I told them to go that way.

Q Mr. O'Rourke asked you on a number of occasions about frequenting Lam's gambling places.

Do you know whether or not Lam had more than one gambling place?

A He had one gambling place. When one was finished, then he opened another one.

Q The one that you frequented in November and December of 1972, where was that one?

A The one on Bayard Street that is called C-h-i-o S-i-n-g.

Q When you first bought heroin from Lam Kin Sang back in the summer of 1972, where was the gambling house on that occasion?

THE INTERPRETER: Excuse me, what was the first part?

Q When you first bought heroin from Lam back in the summer of 1972, where was his gambling house then?

A That is the Yun Ching.

Q And do you recall on what street that one was?

A On the Bowery.

Q And that one was not next door to Wing Chong's laundry shop, was it?

A No.

Q Mr. O'Rourke asked you about the meeting that you

had with Wing Chong after Ah Suey was reported when you asked Wing Chong for more heroin, and he asked you whether or not youwould ask Lam Kin Sang at that time for heroin.

A No.

Q Was there any reason why you preferred getting heroin from Wing Chong than from Lam Kin Sang?

A No special reason because I had spoken to Mr. Lam before and he had said that "If I have any I will let you know."

Q When you had your three transactions with Wing Chong, did you have to pay for the heroin before you received it?

MR. O'ROURKE: Your Honor, I object at this point. I think he stated on cross examination that Ah Suey handled all the financial arrangements.

THE COURT: Refer to the three transactions at the laundry room.

MR. KAUFMAN: Let me rephrase the question.

Q Mr. Or, when you and Ah Suey bought heroin from Wing Chong, did you and Ah Suey, or either of you, have to pay for the heroin before you received it?

A No, we get the goods first. After we sold it then we paid.

Q When you bought heroin from Lam Kin Sang did you have to pay for the heroin before you got the heroin?

A Yes.

MR. KAUFMAN: No further questions.

THE COURT: May we excuse the witness?

MR. O'ROURKE: Yes, your Honor.

THE COURT: All right, the witness is excused.

[Witness excused.]

THE COURT: Please call the next witness.

MR. KAUFMAN: John Toal, your Honor.

MR. O'ROURKE: Your Honor, may we approach the bench?

THE COURT: Yes.

[At the side bar:]

MR. O'ROURKE: Judge, I would like to have some idea with respect to the time period. One of the character witnesses is here. Could we send him home, back to his business, and have him back here at two o'clock?

THE COURT: We will have to see -- how long will you be?

MR. KAUFMAN: The Government's case is going to be very short from now on. It could be finished in a half hour.

THE COURT: You might as well have him wait,

then I will take him on first, if you want to.

MR. O'ROURKE: And Mrs. Moy has to leave at a quarter of one.

THE COURT: I have that in mind.

MR. O'ROURKE: Thank you.

[In open court:]

J O H N T O A L, being first duly sworn, testified as follows:

MR. KAUFMAN: May I proceed, your Honor?

THE COURT: Yes.

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DIRECT EXAMINATION

BY MR. KAUFMAN:

Q Mr. Toal, by whom are you employed?

A Federal Drug Enforcement Administration.

Q And in what capacity are you employed?

A Special agent.

Q And how long have you been with the Drug Enforcement Administration and its predecessor?

A About five and a half years.

Q Directing your attention to November 19, 1974 were you on duty on that day?

A Yes, I was.

Q And what happened on that day?

THE COURT: November 19, 1974?

MR. KAUFMAN: Yes.

A I arrested the defendant Ing Suey Wing.

Q Do you see him here in court today?

A Yes.

Q Will you please point him out?

A He is on my left, at the second table. [Indicating.]

MR. KAUFMAN: May the record reflect that the witness has identified the defendant.

Q At the time that you were arrested the defendant did you seize anything that was on his person at that time?

A Yes, I did.

Q Can you tell us what you seized?

A I seized a bank book and a telephone book from him.

MR. KAUFMAN: Would you please mark this for identification.

[Government's Exhibit 6 marked for identification.]

BY MR. KAUFMAN:

Q I show you Government's Exhibit 6 marked for identification, and I ask you if you can identify that. [Handing.]

A Yes, I can.

Q Tell us what that is.

A This is a telephone book with telephone book with telephone numbers and addresses belonging to the defendant Ing Suey Wing that I seized at the time of his arrest.

MR. KAUFMAN: Your Honor, may the record reflect that I am opening this plastic envelope.

[Demonstrating.]

I think this should be marked 6-A.

***

[Government's Exhibit 6-A marked for identification.]

MR. KAUFMAN: Your Honor, may the record reflect that 6-A is the book taken out of the plastic envelope marked No. 6, and the Government offers 6-A. [Handing.]

MR. O'ROURKE: No objection.

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[Government's Exhibit 6-A marked in evidence.]

MR. KAUFMAN: Your Honor, may I refer to certain pages of this exhibit?

THE COURT: Yes.

MR. KAUFMAN: These pages are not numbered. I have marked them with paper clips.

I am going from right to left.

The first paper clip, the third telephone number

down is 571-0545.

Your Honor, I think Mr. O'Rourke and I have agreed -- we entered into a stipulation as to what establistment these telephone numbers come back to. If that is agreeable to Mr. O'Rourke, I will simply read them into the record.

MR. O'ROURKE: Mr. Kaufman said he would check it out. I did not check it out --

MR. KAUFMAN: Not this one.

MR. O'ROURKE: Oh!

MR. KAUFMAN: I have the 1972 - '73 telephone books.

MR. O'ROURKE: I will stipulate to that if you checked it out.

MR. KAUFMAN: It is stipulated between the defendant and the Government that 571-0545 is the telephone number in 1972 of the Hong Gong Restaurant at 33 Pell Street.

The next paper clip marks the number 878-0480, and it is stipulated that that telephone number in 1972 was the telephone number of Better Service Laundry at 1505 Inwood Avenue in the Bronx.

And the last telephone number is 226-8528, and it is stipulated that that in 1972 was the telephone number of the Vikings Club at 179 CAnal Street.

Will you please mark this as Government's Exhibit 7 for identification.

[Government's Exhibit 7 marked for identification.]

BY MR. KAUFMAN:

Q Mr. Toal, you say you seized a bank book from the defendant Ing. Do you know what happened to that bank book?

A I turned it over to you and you turned it over to the defendant's -- defense attorney.

Q And do you know if any Xerox of that bank book was made?

A Yes, there was.

MR. KAUFMAN: Your Honor, the Government would offer Exhibit 7 for identification in evidence.

MR. O'ROURKE: May we approach, your Honor?

THE COURT: Yes.

[At the side bar:]

MR. O'ROURKE: Judge, we have stipulated that if you admit it, that the Xerox copies could go in, but I am objecting on the basis of relevancy -- unless he can in some way or another show the part that is related to alleged sales. I do not see the relevancy of it.

MR. KAUFMAN: I intend to show the deposits

during the time period of this conspiracy -- if I may show it to your Honor -- between July 25, 1972, and January 2, 1973, and February 9, 1973. [Handing to the Court.]

[The Court examines.]

MR. O'ROURKE: And if I am not mistaken, your evidence implicates the defendant from somewhere starting in October 1972.

MR. KAUFMAN: No. Danny Or testified that he was first introduced to Wing Chung either in August or September of 1972, and the three transactions at the laundry --

THE COURT: The transactions ran into very substantial amounts, didn't they?

MR. KAUFMAN: Yes, your Honor.

THE COURT: Where is there any deposit close to that amount?

MR. KAUFMAN: While he is making deposits of one thousand and fifteen hundred, it is not the Government's contention --

THE COURT: Unless you have further evidence tying this in --

MR. KAUFMAN: Your Honor --

THE COURT: We are not going to argue.

MR. KAUFMAN: I just want to make one point.

The Government does not contend that the defendant got the full $11,000. Presumably he had to pay something for the heroin he received and --

THE COURT: There are no " presumablies" in that.

Objection sustained.

[In open court:]

BY MR. KAUFMAN:

Q AGent Toal, in the last week or so have you had occasion to drive anyplace?

A Yes, I did.

Q And can you tell us about it?

A On March 17th of this year we picked him up and asked him to drive us --

MR. O'ROURKE: May I approach the bench, your Honor?

THE COURT: Is this going to be a session every time a question is asked?

[At the side bar:]

MR. O'ROURKE: Judge, this witness was present during the entire testimony of Danny Or.

THE COURT: Yes, but no motion was made to exclude witnesses from the courtroom.

MR. O'ROURKE: That is very, very true.

THE COURT: Had such a motion been made, and if the Government had represented that it required the presence of the witness to assist the Government, normally I would have done that.

MR. O'ROURKE: I did complain about it yesterday.

THE COURT: There was no motion made at any time during the process of this trial.

MR. O'ROURKE: That is very, very true.

MR. KAUFMAN: Your Honor, I should say it was not my original intention to ask these questions until Mr. O'Rourke went into cross-examination of Danny Or, and this is in the form of rebuttal to that cross-examination.

THE COURT: I will allow him to testify simply because there is no reason for not allowing him to testify.

However, if you are talking about cross-examination, if you are really so much interested in the bank deposits, if the defendant takes the stand you can question him about that.

MR. KAUFMAN: I understand.

[In open court:]

THE COURT: Proceed. Let us move along.

BY MR. KAUFMAN:

Q Will you tell us about that, Agent Toal.

A On March 17 of this year I picked Danny Or up

and asked him to drive us -- to point out the laundry that he had mentioned that he had picked the heroin up from the defendant previously.

We picked him up from the custody of the marshals, and he directed us to a laundry -- it is closed down now but the name of it is still on it -- away up in the Bronx.

Q What was the name of that laundry?

A Better Service Laundry.

Q Do you remember the route that you traveled to get there?

A He took us up the FDR Drive, over the Willis Bridge and then up the Major Deacon Highway, and I believe he told us to get off at the 165th Street exit, and this time we drove around for about twenty minutes on the side streets until he finally found it and pointed out the laundry to us.

Q And what was the address?

A 1504 Inwood.

Q Is the Major Deacon Expressway also known as Interstate 87?

A Yes, it is.

Q Had you ever been to this location before?

A Never.

MR. KAUFMAN: No further questions.

CROSS-EXAMINATION

BY MR. O'ROURKE:

Q Mr. Toal, were you present in court today during the time that Danny Or testified on direct examination and cross-examination?

A Yes, I was.

MR. O'ROURKE: Thank you.

THE COURT: You are excused.

[The witness is excused.]

THE COURT: Please call the next witness.

MR. KAUFMAN: Your Honor, there is one document that the Government would want to introduce, by stipulation. Would you please mark this for identification.

[Government's Exhibit 8 marked for identification.]

[Mr. Kaufman hands Government's Exhibit 8 for identification to Mr. O'Rourke.]

MR. KAUFMAN: And will you please mark this for identification.

[Government's Exhibit 9 is marked for identification.]

[Mr. Kaufman hands Government's Exhibit 9 for identification to Mr. O'Rourke.]

MR. O'ROURKE: No objection to No. 8.

None to No. 9.

[Government's Exhibits 8 and 9 now marked in evidence.]

MR. KAUFMAN: May I refer these to the jury?

THE COURT: Well, they are in evidence. I assume you offered them because you wanted to present them to the jury.

MR. KAUFMAN: [To the jury.] Exhibit 8 is a standard form of store lease between a landlord known as 91 Bayard Street Building, Inc., and Wing Chong, presently residing at 10 Delancey Street, Apartment 9, New York, New York.

It is a lease covering the premises from September 1 to August 31, 1973. It covers the premises to be used as a laundry and dry goods store, and two signatures appear for the tenant, both Wing Chong and Suey Wing NG.

Exhibit 9 is a card submitted to a bank, an account card by the name of Wing Chong, 10 Delancey Street, Apartment 9, signature, Suey Wing Ng. This covers a grocery store at 85 Bayard Street. This was filed August 13th, 1970, and it is also a business certificate saying that the name Wing Chong at 85 Bayard Street, referring to

that name, and the signature on the business card is Suey Wing Ng, and it is executed August 10, 1970; and the writing appearing below is "Chong means prosperity, it is not a family name."

The Government calls Kock Men Hom.

THE COURT: Are you going to be long with this witness?

MR. KAUFMAN: No.

THE COURT: Approximately how long will you be?

MR. KAUFMAN: Very briefly -- a matter of a few minutes.

K O C K M E N H O M sworn through the interpreter, called by the Government, testified as follows:

MR. KAUFMAN: May I proceed, your Honor?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. KAUFMAN:

Q What is the proper way to address you -- which is your surname?

A My surname is Hom.

Q Mr. Hom. Mr. Hom, are you familiar with the Vikings Club in Chinatown?

A No -- some of the things there.

Q Well, have you ever frequented that club?

A When I have a day off I go there.

THE COURT: Will you please tell the witness to speak out in a loud tone of voice so that everybody in the courtroom can hear him.

[Interpreter speaks to the witness.]

Q And what is the location of the Vikings Club?

A 179 Canal Street, on the fourth floor.

Q And do you know the name of this club in Chinese?

A The Chinese name is Won Fung.

MR. KAUFMAN: Your Honor, may I ask the interpreter to translate the Chinese inscriptions on Government's Exhibit 6-A which correspond to the telephone number of the Vikings Club. [Handing.]

A That is Won Fung. That means the Won Fung Club.

Q And how long have you been going to the Vikings Club?

A Three or four years.

Q I ask you to look around the courtroom and tell us whether or not there is anybody that you see in here whom you recognize from the Vikings Club.

A The one over there. [Indicating.]

Q Can you tell us what table you are referring to,

if you are referring to a table?

A The further table in the Western Suit style dress.

Q The individual sitting at what end, closer to the wall or closer to the windows, or the individual sitting in the middle?

A The one there. [Indicating.]

THE COURT: Well, I think he has --

MR. O'ROURKE: Your Honor, I will stipulate --

THE COURT: Let us not spend time on it. He has pointed him out.

MR. O'ROURKE: Mr. Ing is a frequent patron of the Vikings Club, and I have never been there.

BY MR. KAUFMAN:

Q Do you recall what time of the day or night -- withdrawn .

Do you know that individual's name?

A Ing Suey Wing.

Q And what time would Ing Suey Wing come to the club if he had any regular hours?

MR. O'ROURKE: Can we fix a time period, your Honor?

THE COURT: Yes.

Q Referring to the latter half of 1972, approximately

two and one half years ago, can you recall whether or not NG Suey Wing frequented the club then?

A I have seen him there sometimes when I go there on my day off.

Q And at what time of day or night did you see him there?

A On Sundays, sometimes during the day; other days would be in the evening.

MR. KAUFMAN: No further questions.

***

CROSS-EXAMINATION

BY MR. O'ROURKE:

Q Mr. Hom, in 1972 was the Vikings Club located on the third floor of that building or the fourth floor?

A The Chinese refer to that as the fourth floor.

Q Well how many flights up is it?

A Three stairways up.

Q And from the first floor, if you look up, can you see people on the third floor?

A When the windows are closed I can see.

Q The staircase leading from the ground floor to the third floor, are they circular, winding?

A Turn the corner.

Q On each floor?

A From the second to the third floor is straight up.

Q And from the second to the third you turn?

A It turns on the third floor.

Q And when you saw Mr. Ng at the Vikings Club was he playing mah jong?

A Sometimes he is playing mah jong.

Q And had you seen him do anything else there?

A No. Sometimes he may be talking to people.

Q Do you know him personally, or just by sight?

A I know him by sight.

Q Did you ever see him leave any packages on the stairway outside of the club itself?

A I have not seen this myself.

Q Can you recall whether or not he received telephone calls at the club?

A I do not remember so many things.

MR. O'ROURKE: Thank you.

MR. KAUFMAN: No redirect, your Honor.

THE COURT: The witness is excused. I think we will take our midmorning recess.

(Recess.)

THE COURT: Call the next witness, please.

xx R A P H A E L J U L I A N R O D R I Q U E Z,

called as a witness by the Government, having been first duly sworn by the Clerk of the Court, testified as follows:

xx DIRECT EXAMINATION

BY MR. KAUFMAN:

Q Mr. Rodriquez, by whom are you employed?

A New York City Police Department.

Q What is your rank with the New York City Police Department?

A Detective.

Q What unit are you currently assigned to?

A Internal Affairs Division.

Q Directing your attention to December 1972, what unit were you assigned to then?

A Narcotics Division.

Q And during December of 1972, were you acting in an undercover capacity?

A Yes.

Q Would you tell us what acting in an undercover capacity means?

A I try to gain the confidence of individuals who are in the process of distributing and selling narcotics.

Q You pose as a person interested in buying narcotics, is that correct?

A Yes.

Q Were you involved in any particular investigation in December of 1972?

A Yes.

Q Directing your attention specifically to the evening of December 18th, 1972, were you on duty at that time?

A Yes.

Q By the way, what name were you utilizing in your undercover role then?

A Carlo. You are referring to '72, December?

Q Yes, December 18, 1972.

And can you tell us what you did on December 18, 1972?

A I met with -- early in the evening with one named Baby, true name is Rafael Colon, at his apartment at 160 East -- rather East 2nd Street in Manhattan.

I discussed with him the interest of purchasing a quantity of brown rock heroin, to wit approximately a pound for $15,000.

He told me to return early, -- later on that evening; that the Chinaman, referring to one named Danny Or, would have the pound ready.

When I did return, I picked him up at East 2nd Street --

Q Picked who up?

A Baby, Rafael Colon. In his apartment was a female named Anna Ortiz. He told me that she was going to purchase a half pound from the Chinaman as well.

Q By the way, were you with anybody else on this occasion?

A Yes, I was with a confidential informant.

Q All right, continue.

A Later on that evening Danny Or arrived and going in separate cars we went to Danny Or's the vicinity of Danny Or's apartment at 95 Orchard Street in Manhattan.

Sometime during the evening I handed 15,000 to Rafael Colon for the purchase of the narcotics.

Q How much heroin was that?

A Approximately a pound.

Q Yes?

A Rafael Colon went to Danny Or's apartment.

MR. O'ROURKE: Your Honor, at this point I object unless he saw it. He disappeared out of sight.

Q Do you know where Rafael Colon went?

A Yes, he told me in the car that he was going to Danny Or's apartment and I observed him enter 95 Orchard Street, Danny Or's apartment.

I observed him exit with Danny Or from 95 Orchard Street -- that is Rafael Colon and Danny Or -- and enter a car used by Rafael Colon.

Danny Or drove this car. And --

Q Do you know where that car went?

A No, it went to some unknown location that Rafael Colon told us to wait, that they were going to pick

up the package.

Q Do you know whether any survailing agents trailed that car to where it was going?

A They did it for a short period of time. Then they knocked off the surveillance because they were being made.

Q When you say being made, what do you mean?

A They assumed that either Danny Or or Rafael Colon, being they kept on looking back, picked up the tail, surveillance.

Q What was the next thing happened after Baby and Danny Or drove off?

A While waiting on Orchard Street, I observed through my rearview mirror Danny Or parking his car directly behind me.

Baby, Rafael Colon, entered the car and entered the rear right seat of my car. He had a brown paper bag. He opened it and showed me that -- rather a plastic bag containing the brown rock heroin.

He said, "This is the pound and a half."

Anna Ortiz was in my car and so was the confidential informant. And I had a scale. He told me to go to his address, his residence, at East 2nd Street. The apartment -- well, we got in front of the building, Rafael Colon entered 160 East 2nd Street while I went to park the

car. Anna Ortiz took the scale. When I arrived there at the apartment, I observed Danny Or and Rafael Colon on the floor weighing the narcotics, drugs.

After a while they handed a half a pound approximately and he handed Anna Ortiz a half a pound. Then they weighed my drugs. Baby, Rafael Colon, handed me a pound, what appeared to be a pound. I put it back on the scale and Danny Or said, "That is a pound."

And he handed it to me. I put it inside my shirt. Then I went and I signed and sealed the evidence with the field team and delivered the evidence to the police, the Crime Laboratory.

Q Had that heroin been with the crim laboratory since that date?

A No, subsequently I retrieved it from the crime laboratory for trial and the case of Danny Or.

Q And after that heroin was used at Danny Or's trial, where was the heroin taken?

A To the crime laboratory again.

Q Did you do that?

A Yes.

Q And since that date, has the heroin been out of the crime laboratory?

A Yes.

Q When was that?

A When you requested it.

Q And did you bring it to this building?

A Yes, I did.

MR. KAUFMAN: Let's have the plastic marked 10A.

xx (Government's Exhibit 10A marked for identification.)

MR. KAUFMAN: Your Honor, may the record reflect that 10A is the plastic bag in which a box is contained and I will now open this plastic bag, the plastic bag being a heat sealed bag.

xx (Government's Exhibit 10B marked for identification.)

MR. KAUFMAN: Your Honor, may the record reflect that 10B is another plastic bag in which this box is contained. And I am now unsealing this plastic bag.

xx (Government's Exhibit 10C marked for identification.)

MR. KAUFMAN: Your Honor, may the record reflect that 10C is a brown box which I will now open, or attempt to open.

May the record reflect that taken out of 10C is a plastic bag containing a brown substance and a number of

brown paper bags.

Q Detective Rodriquez, can you identify these bags as to what their function is or was?

A Originally these two brown paper bags was what I --

MR. O'ROURKE: Your Honor, may it be offered in evidence before he reads from that paper?

THE COURT: Yes.

MR. KAUFMAN: Let me mark these as 10D.

(Government's Exhibit 10D marked for identification.)

(Government's Exhibit 10E marked for identification.)

(Government's Exhibit 10F marked for identification.)

(Government's Exhibit 10 marked for identification.)

(Governments Exhibit 10G marked for identification.)

Q Officer Rodriquez, I show you Government's Exhibit 10 for identification, and ask if you can identify that?

A Yes, this is a brown rock heroin I purchased the evening -- rather the morning of December 19.

Q This is the heroin that you purchased from Danny Or and Baby Rafael Colon?

A Yes.

Q How do you know that this is the heroin that you purchased?

A I know the brown substance and I was at the lab when they put it into this bag.

Q What bag was this heroin --

MR. O'ROURKE: Is this to be offered in evidence, your Honor?

MR. KAUFMAN: In a moment, your Honor. I will offer all the exhibits that the Government intends to offer at the same time.

Q When you received this heroin from Danny Or and Baby, what package, if any, was it in?

A It was contained in this plastic bag.

Q This is 10E for identification?

A Yes. And wrapped with this 10G for identification tape.

Q After you received --

A And a brown paper bag, a double.

Q And it was in 10D for identification?

A Yes.

Q And after you received this from Danny Or and

Baby, what did you do with it?

A I signed and sealed it in this envelope.

Q 10F for identification?

A Yes.

Q And does your signature appear on here?

A Yes.

Q Referring to those outer envelopes, 10A, B, and C for identification, does your signature appear on each and every one of these items?

A Only on two.

Q On 10B?

A Right. Here also.

Q And 10C?

A Yes.

MR. KAUFMAN: Your Honor, the Government offers 10, 10D, 10E, 10F, and 10G.

MR. O'ROURKE: May I inquire?

THE COURT: Yes.

xx VOIR DIRE EXAMINATION

BY MR. O'ROURKE:

Q Officer --

THE COURT: Have you finished your examination?

MR. KAUFMAN: No, I thought this was voir dire.

THE COURT: All right.

Q Officer Rodriquez, when Baby came back, did he come back into your car where you were seated with the package?

A He came into the back, the rear seat of the car. I had a four door sedan.

Q And did he leave the package off in your car?

A No, no, he sat in my car. He came with me.

Q Yes.

A I drove him to his apartment.

Q I am talking about after he had picked up the package somewhere?

A Yes, after he picked up the package, he exited his car that Danny Or was driving and entered my car with a pound and a half of brown rock heroin.

Q With the package?

A That's correct.

Q Did he leave that package with you?

A No, he -- as soon as we got in front of his house -- I drove him in front of his house, he exited with the package while I went to park the car.

Q In the car, when he came into the car, did you mark the package with any notation before he left to go up into the apartment?

A No, all I did was saw the package and I saw the

plastic bag.

Q And that is a typical plastic bag, is it not?

A No, it is not.

Q Is there any --

A It had inscriptions on the plastic bag that I recognized when I worked for the department.

Q What did the inscription say?

A Pon Lily or something to that effect had written on.

Q You had seen bags like that before?

A No.

Q That is the first time you ever saw that one?

A That particular one with that description?

Q You had never seen a plastic bag with the inscription Pon Lily?

A No.

Q You saw that in the car?

A Yes, he took out the bag, showed it to me. I told him to put it back in the bag and we will take care of business upstairs, unless that is the pound I will take it.

Q You made a notation?

A A mental notation.

Q A mental notation?

A That's correct.

Q Since that time you have made many arrests in connection with narcotics investigations?

MR. KAUFMAN: Objection, your Honor. Beyond the scope of the voir dire.

THE COURT: Aren't you going beyond the voir dire?

MR. O'ROURKE: Very well.

Q After he left, when did you next see the Exhibit 10?

A After who had left?

Q After he had left the car and gone up into his apartment.

A How much time lapsed?

Q Yes.

A Approximately five minutes -- five, ten minutes.

Q Were there other packages in the apartment at that time when you got up there?

A I didn't search the apartment. All I know is I saw them with the package that he showed me on the floor.

Both were squatted down, that is, Danny Or and Baby were squatting right by my scale.

Q Did they open the package and pour the contents on the scale?

A Poured some contents on the scale.

Q Was Mr. Ng, the defendant, there?

MR. KAUFMAN: Objection.

THE COURT: There is no claim he was there on this witness' direct testimony and this is a voir dire on the question of admissibility.

Q Did you take the package with you that night?

A Yes.

Q And have you had it in custody ever since that time?

A I have had it in custody up until the time that I delivered it to the Police Criminal Laboratory.

MR. O'ROURKE: Defendant interposes an objection.

THE COURT: You identified that package as the package you received on the date of December 19, 1972?

THE WITNESS: Yes, your Honor.

THE COURT: Overruled.

xx (Government's Exhibits 10, 10D, 10E, 10F and 10G received.)

MR. KAUFMAN: Your Honor, I would like to circulate Exhibit 10 among the jury, and caution them to be careful with it so that it remains in its sealed condition. [Handing.]

***

DIRECT EXAMINATION [continued]

BY MR. KAUFMAN:

Q Detective Rodriquez, did there come a time when you negotiated to purchase more heroin from Danny Or?

A Yes.

Q And do you recall when it was?

A It was on December 28th, I believe.

Q And did you negotiate for any particular amount of heroin?

A Approximately two pounds.

Q Can you tell us what happened on December 28th, 1972?

A Accompanied by a confidential informant I went to Danny Or's apartment at 95 Orchard Street. He told me there that he did not have the two pounds, that he only had a pound, so I handed him $14,000.

He said we would have to go to another location to pick up the pound.

I drove him to East 7th Street, and he entered a building. I asked him if I could accompany him, and he

told me to remain in the car.

He exited with another male Oriental -- I don't know his name -- and was carrying a Marlboro carton of cigarettes.

Danny entered my car, and he placed the Marlboro carton in the glove compartment.

The other male Oriental entered my car also. He said go back to his apartment at 95 Orchard Street. In the street the other unknown male Oriental exited my car. Then Danny told me to drive to 171 East Broadway. There we entered another apartment that he said that he, and he came out with a pink plastic bag which he stated contained one pound and a half of brown rock heroin.

Prior to going to the apartment he took the Marlboro carton out of my glove compartment.

In the apartment he opened the Marlboro carton and said the packets that are in the Marlboro carton contained a half ounce of brown rock heroin. He extracted 16 packets.

He said he couldn't give me the whole packets, 32 packets, because the unknown male Oriental told him not to give me the whole pound.

He took the remaining sixteen packets and placed them in a cupboard in the kitchen.

After arguing with him regarding the price, because we had originally negotiated that it would be 28,000 for the two pounds, he upgraded it to five hundred extra dollars, which I gave him out of the expense money that I had in my pocket, and at the apartment I gave him an additional $14,000.

Q Go ahead.

A Thereafter I took the pound and a half, plus the sixteen packets to the field team and delivered the evidence to the crime laboratory.

Q And has the custody of that heroin been the same as the heroin that you previously testified to?

A Yes.

Q Now, just to make sure that I am clear, you got a total of two pounds of heroin that night?

A Approximately.

Q And, as I understand it, it came from two different sources, is that right?

A Exactly.

Q About a half a pound from 16 individual half ounce packets that came from the Marlboro carton?

A Exactly.

Q Which constituted half a pound.

A Right.

Q And then one and a half pounds from a pink plastic bag?

A Yes.

MR. KAUFMAN: Will you please mark this as Exhibit 11-A?

[Government's Exhibit 11-A marked for identification.]

MR. KAUFMAN: Your Honor, may the record reflect that Exhibit 11-A is a plastic packet which I am not cutting open. [Demonstrating.]

Will you please mark this 11-B?

[Government's Exhibit 11-B marked for identification.]

BY MR. KAUFMAN:

Q Detective Rodriguez, does your signature appear anywhere on 11-B? [Handing.]

A Yes.

Q Will you point it out?

[The witness indicates.]

Q Thank you.

MR. KAUFMAN: Your Honor, may the record reflect that 11-B is a brown cardboard box which I am now going to open.

[Mr. Kaufman attempts to open.]

[The witness opens 11-B for identification.]

MR. KAUFMAN: Please mark this as 11 for identification.

[Government's Exhibit 11 marked for identification.]

MR. KAUFMAN: Will you please mark this 11-C for identification?

[Government's Exhibit 11-C is marked for identification.]

MR. KAUFMAN: Your Honor, may the record reflect that 11-C is another of these plastic bags that I am now going to open. [Demonstrating.]

Can we deem these both marked as Exhibit 11.

[Government's Exhibit 11 deemed marked for identification.]

MR. KAUFMAN: Please mark this as 11-D for identification.

[Government's Exhibit 11-D is marked for identification.]

MR. KAUFMAN: And this 11-E.

[Government's Exhibit 11-E is marked for identification.]

BY MR. KAUFMAN:

Q Detective Rodriguez, I ask you to look at

Government's Exhibit 11 for identification, and I ask you if you can identify that. [Handing.]

A Yes.

Q Will you tell us what it is.

A Well, one packet is the envelope in which I put the evidence -- part of the evidence in, and it is the brown rock heroin, approximately the pound and a half.

Q And can you see the heroin --

A Yes.

Q -- through the transparent part?

A Yes.

Q I show you Exhibit 11-D for identification and ask you if you can identify that. [Handing.]

A These are the plastic packets, sixteen plastic packets.

Q The additional half pound that you received?

A Exactly.

Q And I show you Exhibit 11-E for identification and ask you if you can tell us what that is. [Handing.]

A No.

Q You can't?

A It is probably the package when we opened it before trial -- it probably has the pink plastic bag.

Q Maybe we ought to open it.

A I do not see it here.

MR. KAUFMAN: Your Honor, may the record reflect that I am opening a plastic bag which is 11-E. [Demonstrating.]

[Mr. Kaufman hands 11-E to the witness.]

A [After examining.] And this is when they dusted it for prints.

MR. KAUFMAN: Will you please mark this 11-F?

[Government's Exhibit 11-F is marked for identification.]

BY MR. KAUFMAN:

Q Detective Rodriguez, can you identify 11-F? [Handing.]

A 11-F is the pink plastic container which contained the pound and a half, approximate pound and a half of brown rock heroin.

This cloth was wrapped around the plastic bag.

MR. KAUFMAN: Would you please mark this 11-G?

[Government's Exhibit 11-G is marked for identification.]

THE WITNESS: This was contained in this brown paper bag. [Indicating].

MR. KAUFMAN: Please mark this 11-H.

[Government's Exhibit 11-H is marked for

identification.]

MR. KAUFMAN: Your Honor, the Government offers 11, 11-D, 11-F, 11-G and 11-H. [Handing to Mr. O'Rourke.]

MR. O'ROURKE: Your Honor, the defendant objects to these being admitted in evidence against himself.

THE COURT: On what grounds?

MR. O'ROURKE: I beg your pardon?

THE COURT: I do not understand. On what grounds?

MR. O'ROURKE: That there is no connection -- the defendant contends there is no connection between this here purchase from one Danny Or and this defendant.

THE COURT: The jury will make the determination.

[Government's Exhibits 11, 11-D, 11-F, 11-G and 11-H now marked in evidence.]

MR. KAUFMAN: Your Honor, may I circulate Exhibits 11 and 11-D to the jury, with the same precaution, please. [Handing.]

Your Honor, at this time I would like to read into the record a stipulation agreed to with defense counsel, that the chemist, if called to testify -- the chemist from the crime laboratory would testify that these exhibits, 11, 11 and 11-D, I believe it is, were examined and indeed contained heroin.

MR. O'ROURKE: That was not exactly the stipulation. The stipulation was that if the chemist were called he would testify that the exhibits he examined contained a certain amount of heroin, as recorded in the exhibit. The defendant does not concede the accuracy or the truth thereof but concedes that he would so testify.

MR. KAUFMAN: That is correct, your Honor. That is what I meant to say if I did not say it.

THE COURT: He would testify that the contents of these exhibits are heroin?

MR. KAUFMAN: That is correct.

I have no further questions of the witness.

THE COURT: Do you have the amount that he would testify to?

Is there a stipulation as to the quantity?

MR. KAUFMAN: I believe as to Exhibit No. 10 it would be fifteen ounces.

With respect to 11, it would be one pound, six and one quarter ounces, plus 45 grains.

With respect to 11-D, it would be 7-1/4 ounces plus 54 grains.

** CROSS-EXAMINATION

BY MR. O'ROURKE:

Q Detective Rodriguez, do you recall on December

18th what time it was that Raphael Colon left to go and pick up heroin?

A May I refer to my reports to refresh my recollection?

THE COURT: Yes.

A [After examining.] That would be approximately 3:50 a.m. of December 19th.

Q And did he drive off in an automobile and leave your company?

A Yes.

Q And did you or anybody follow the automobile?

A A surveillance team did follow him.

Q Do you know the surveillance --

A They are a part of the field team, yes.

Q Were they able to follow him to the location where he stopped the vehicle?

A No.

Q To your knowledge did they attempt to?

A They attempted to, yes.

Q And to your knowledge what stopped them, what prevented them from following through?

A Danny Or and Raphael Colon continually kept looking back.

Q That is, through the rear view mirror?

A Not the rear view mirror, the rear view window -- period.

Q And on December 28th, the second occasion, did Raphael -- withdrawn.

On that date, December 28th, what time did Colon leave your company to go get the heroin?

A I had no business with Colon on December 28th.

Q On that particular date did you have business with Danny Or?

A Yes.

Q What time did he leave your company?

A He did not leave my company. We went together.

At one point in time when I dropped him off at East 7th Street he left my company for a short period of time.

Q And did anybody follow him?

A No. I was right next -- I double parked adjacent to the building that he entered.

Q And did anybody on your team see Danny Or come out of the building on Canal Street that particular evening?

A Canal Street?

Q Yes.

A We didn't go to Canal Street.

MR. O'ROURKE: Thank you.

MR. KAUFMAN: Just one question.

REDIRECT EXAMINATION

BY MR. KAUFMAN:

Q On December 28th when you did business with Danny Or, did he already possess the pound and a half of the two pounds of heroin that he gave you that night?

A Yes.

MR. KAUFMAN: Nothing further, your Honor.

THE COURT: You are excused.

[Witness excused.]

THE COURT: Call your next witness.

MR. KAUFMAN: At this time the Government rests, your Honor.

THE COURT: Will you come up?

[At the side bar:]

MR. O'ROURKE: The defendant Suey Wing Ng moves for an order of acquittal at the end of the case.

THE COURT: At the end of the Government's case.

MR. O'ROURKE: I am sorry, at the end of the Government's case.

THE COURT: The motion is denied.

[In open court:]

THE COURT: All right, the defendant may go

* * *

Q How old are you, Mr. Ng?

A 49 years old.

Q Are you married?

A Yes.

Q Do you have a family?

A Yes.

Q How many children?

A Four children -- three boys and one girl.

Q Is your daughter present in the courtroom today?

A Yes.

Q When in Hong Kong had you ever met the witness Lam Ping?

A Yes, I met him once.

Q And do you recall where you met him?

A I met him in my sister-in-law's place.

Q And was there any occasion for that meeting?

A I was there because at that time Mr. Lam was going to marry my niece, who is a grand daughter of my sister-in-law.

Q And did he in fact marry your niece?

A Yes. I don't know whether they have been officially married, because there was no banquet.

Q When you came to New York where did you move to?

A You mean in New York?

Q Yes.

A 178 Mulberry Street.

Q Did your family come with you at that time?

A Yes.

Q Did there come a time after that when you became employed in some occupation?

A Yes.

Q When did you start work in relation to the time that you arrived here?

A Three days after I arrived.

Q Where did you go to work?

A In Chin Miey Washing Factory -- the English name is not that. The English name is Better Service.

Q When you say "The English name is not that", what do you mean by that?

A Ching Miey is the real name of the factory but Better Service is the American or English way of calling the factory.

Q And what type of work did you do there?

A Fold sheets.

Q And for how long did you work there?

A Over four years.

Q And did you become an American citizen?

A Yes.

Q What year?

A Some time in August 1973.

Q Now, did there come a time when you opened up your own business?

A Yes.

Q What type of business?

A Inside the store is a laundry. Outside the store is like a grocery store.

Q And where is that located?

A 85 Bayard Street.

Q I show you this exhibit, Government's Exhibit 8 in evidence, and I ask you to look at it. [Handing.]

A [After examining.] I have seen this paper.

Q Is that the lease for your premises?

A I am not very familiar with the English writings.

Q Will you turn it over, please?

[The witness examines.]

Q Do you recognize signatures thereon?

A [After examining.] Yes, that's my signature.

Q Is the name -- is there another name there besides Suey Wing Ng?

A Yes.

Q I show you this here. [Indicating.] What does that say?

A [After examining.] That's the name of my store.

Q Wing Chong?

A Yes.

Q Thank you.

Now I show you Government's Exhibit No. 9, and I ask you to look at it. [Handing.]

A [After examining.] Yes, I have seen this document.

Q Is that a certificate of doing business under an assumed name followed with the Clerk of New York County?

A Yes.

Q Thank you. And that assumed name that you are doing business under is Wing Chong?

A Yes.

Q Now does the name Viking Club mean anything to you?

A Viking Club? I heard it before.

Q It has a Chinese name, and it is located at 179 Canal Street.

A Yes.

Q And what is the name of that club?

A The Chinese call it Wun Fung.

Q And have you been in that club?

A Yes.

Q Do you recall the year you first went into that club?

A Maybe about five to seven years ago.

Q In 1972, if you can recall, how often did you go into that club?

A I could not recall how many times but whenever I am off, I have free time, I went there, maybe once a week, maybe twice a week, maybe once every two weeks.

Q And what did you do when you went there?

A Sometimes I go there for social gathering, and sometimes I look for friends to play Mah Jong.

Q Had you ever seen Lam Ping there at that club?

A No.

MR. O'ROURKE: Now Mr. Kaufman, may I have the exhibit -- I don't know the exhibit number -- the telephone book?

[Mr. Kaufman hands.]

BY MR. O'ROURKE:

Q Mr. Ng, I show you Government's Exhibit 6-A in evidence and ask you to look at it. [Handing.]

[The witness examines.]

Q Do you recognize it?

A I recognize it.

Q And who owns it?

A Mine.

Q And what is it?

A It's my telephone book.

Q And the numbers contained therein, are they numbers of friends and business associates?

A Yes.

Q And is the number of the Viking Club in the telephone book?

A Yes.

Q Would you look and see to be sure?

A [After examining.] Yes, right over here. [Indicating.]

Q And did you ever have occasion in 1972 to call that number?

A Yes.

Q And what was the purpose of your call?

A Sometimes I wanted to find out whether my friends are up there. I wanted to play Mah Jong with them. I wanted to see if they were there.

Q And in that telephone directory, that book, is the number of the Hong Gong Restaurant written in?

A [After examining.] Yes.

Q And did you call that number in 1972?

A Yes, possibly.

Q And did you have any particular purpose in calling that number?

A I have a friend, Wong Lim who worked there, and sometimes I went up to find out if some of my friends are there having dinner.

Q Now, can you recall when for the first time you met Lam Ping here in New York ?

A I could not recall exactly but maybe two or three weeks before his gambling house was open.

Q Do you recall when he opened -- Lam Ping said he opened his gambling house in November of 1972.

Would that be correct?

A Yes. It is almost the same time.

Q And where did you meet him?

A In Hong Gong.

Q Hong Gong Restaurant?

A Yes.

Q And this was two or three weeks before he opened up the gambling house?

A Yes.

Q And when you met him were you in the company of two or three other men ?

A Yes.

Q And what was Lam Ping doing in the restaurant at the time?

A I don't know what he was doing. I just saw him enter the restaurant.

Q Was he dressed as a waiter?

A No.

Q And did you take him by the arm and lead him to a quiet spot in the restaurant ?

A No.

Q And did you say to him, "I have a pound", or "I have some crystalline heroin for you"?

A No.

Q Did you say anything similar to that to him?

A No. I haven't met him for ten years. How could I just approach him and talk to him this way?

Q How long were you in the restaurant with him before you left?

A We just exchanged a few words. He approached my table and I told him I had a business located on Bayard Street, I just started a business, and he went his way and I went my way --no, he went his way and I continued eating with my friends.

Q And when did you next see him after that?

A Then a week before his gambling house was

opened I saw him.

Q Where?

A He came to my store.

Q And did he say anything to you at your store?

A Borrow money.

Q Ah! Did he ask to borrow money?

A Yes.

Q And what was the amount that he requested?

A $200.

Q Did he say why he needed it?

A He said he spent all his money.

Q And did you give it to him?

A Yes.

Q Incidentally, did you ever get it back?

A No.

Q And when did you see him for the second time?

A About three or four weeks later.

At that time his house was open,

Q Did he come in to your premises?

A Yes.

MR. KAUFMAN: Your Honor, I just object to the leading at this point.

THE COURT: Try to avoid leading questions now, please.

MR. O'ROURKE: Yes.

Q Where did you next see Lin?

A I saw him about two or three days after -- two or three weeks after the gambling house was open.

Q Where did you see him?

A He also came to my store.

Q And what, if anything, happened this time he came to your store?

A Also borrowed money.

Q How much money did he borrow?

A He asked me to loan him $200.

Q Did he tell you why he needed it?

A He said he spent all his money.

Q On this second occasion that he came to borrow money, did you lend him the money?

A I only gave him a hundred.

Q And after that, did you see Lam Ping again?

A Yes, he came again.

Q How soon after the second time?

A It is around Christmas time.

Q In 1972?

A Yes.

Q At that time what happened?

A He came to borrow money from me.

Q When you said Christmas time, is it Chinese Christmas season the same, December 25th?

A American Christmas.

Q All right.

When he came the third time to borrow money, what happened?

A I have no way of lending him any more money.

Q Did anything happen when you refused to lend him money?

A He was very unhappy.

Q Did there come a time after that when you saw

him again?

A He didn't come to look for me.

Q Had you ever gone into his gambling club?

A No.

Q I am referring to the one at 85 Bayard Street.

A 85 has no gambling house.

Q The gambling house at Bayard Street next to your store.

A No, I haven't gone to his gambling house and I have never gone to any gambling house.

Q How long did his place remain in business?

A I don't know for how long.

Q You saw Lam Ping testified here the other day?

THE COURT: You mean he heard.

MR. O'ROURKE: Heard. Correct.

Q You heard Lam Ping testify?

A Yes, I heard.

Q And you saw him on the witness stand?

A Yes.

Q And when had you last seen him before that?

A I can't remember because often I saw him walking, pass by, and we don't greet each other too much.

Q Did you see Mr. Lam Ping in this building about a week ago?

A Yes.

Q Before that, when had you last seen him?

A The last time I recall a meeting face to face with him was the third time when he came to borrow money from me. Other than that, when we walk on the street we just-we didn't stop to say hello to each other.

Q Did you know Lam Ping by a nickname in Chinese?

A The people on the street call him Crazy Lin.

Q Did Lam Ping ever ask you to supply him with heroin?

A No.

Q Did you ever offer to supply heroin to him?

A No.

Q On any occasion did you take a package of heroin or anything else and put it on the third floor landing at the Viking Club?

A No.

Q You heard the witness Danny Or also known as Ah Dau testify, did you not?

A Yes, I heard him.

Q Had you ever seen him before he came into Court and testified?

A No.

Q Did you know a man by the name of Ah Suey?

A I do not know him very well, but I know there was such a person.

Q In what way did you know him?

A He bring his laundry to my store.

Q Did you ever have the occasion to ride in an automobile with Ah Suey?

A No.

Q Did you ever have any occasion to ride with Danny Or, or Ah Dau in a car?

A No.

Q Since you left your job at the laundry factory in the Bronx, how many times had you gone back to visit the factory?

A No, very, very seldom.

Q Did you make an offer to sell heroin to Ah Suey?

A No.

Q Did you make an offer to sell heroin to Danny Or?

A No.

Q With respect to the laundry where you had worked in the Bronx, do you have any business connection with them today?

A No, I just was there and now I just send my

laundry up there to be done.

Q And they return it?

A Yes.

Q And is there any label on the packages when they come back?

A Sure, a seal.

Q And what does the label say?

A On top of this return the name of the laundry factory and then they leave a space for you to write how many sheets and how many pillowcases. It is also listed on the seal.

Q Is the address on there?

A Definitely.

Q And does a truck deliver the laundry to your store?

A Yes.

Q Does that truck have any lettering on it?

A Yes.

Q What lettering does it have?

A "Better Service Laundry." That is the name and that is the address.

Q And did the people in your neighborhood know that you had previously worked at that office?

MR. KAUFMAN: Objection, your Honor

THE COURT: I sustain the objection.

Q Did anybody in the neighborhood know that you had previously worked at that laundry?

A Yes.

Q At any time in 1972 did you have occasion to leave the State of New York for any period of time?

A Oh, sometimes in 1972 I went down South to Virginia to apply for a driving license.

Q How long were you in the State of Virginia?

A A couple of months. I have some problems and so I have to reapply.

Q Well, did you stay down there for a continuous period of two months?

A Yes, a couple of months.

Q Let me rephrase it.

Did you stay down there for a period of sixteen consecutive days?

A No, it is not 16 days. Sometimes between 45 to 50 days.

Q And where did you stay down there?

A In Virginia in my relative's place, Chester -- Chester -- I don't know.

Q Who works with you at the Wing Chong Laundry?

A My wife.

Q Did you ever meet anybody by the name of Rafael Colon?

A I don't know such person.

Q Did you ever meet anybody with the name Baby?

A A big person or a small baby?

Q No, a man whose name was Baby.

A No.

Q Did Ah Suey ever come into the Wing Chong laundry and give you any money?

A When he took his laundry back he has to pay me.

Q And that would be two or three dollars?

A Sometimes a little more than that.

Q And did he ever give you a paper bag containing thousands of dollars?

A No, no.

Q Did you ever have a telephone conversation with Lam Ping?

A No.

Q Did you ever give anybody directions by telephone -- directions to pick up a package at the Viking Club?

A No.

MR. O'ROURKE: Thank you. I have nothing further at this time.

CROSS-EXAMINATION

BY MR. KAUFMAN:

Q Mr. Suey or Mr. Ng?

A Mr. Ng.

Q You say when you first came to New York City you lived on Mulberry Street, is that right?

A Yes.

Q And did there come a time when you moved from that address?

A Yes.

Q Where did you move to?

A I moved to Kenmare Street.

Q Do you remember the address on Kenmare Street?

A 70 - or 80.

Q Was that an apartment building?

A Yes.

Q Did there come a time when you moved from that address?

A Yes.

Q Where did you move?

A No. 10 Delancey.

Q Is that Apartment No. 9?

A Yes.

Q How long did you live there?

A Where?

Q At Delancey Street.

A About four or five years.

Q And was it from that address that you moved when you moved to this address in Queens?

A Yes.

Q And when did you make that move to Queens?

A October 1973.

Q And do you live in an apartment in Queens as well?

A It's an individual house, and I live on the first floor.

Q Is it a two-family house?

A Yes.

Q Do you own the building or do you rent space in it?

A It's mine and my children, and we have to pay a mortgage.

Q You bought this building, is that right?

A Yes.

Q When did you buy it?

A I can't remember the exact time -- it is sometime between August and October, and they have the process -- I don't know exactly when I moved in.

Q What was the purchase price that you paid for it?

A Altogether the house itself costs about 80,000 and I paid about 30,000.

Q You paid about 30,000 down?

A Yes.

MR. KAUFMAN: Would you please mark this as Government's Exhibit 12?

[Government's Exhibit 12 marked for identification.]

BY MR. KAUFMAN:

Q I show you Government's Exhibit 12 for identification and ask you if you can identify that. [Handing.]

A [after examining.] Yes.

Q What is it?

A That's right.

Q Is this the house?

A That is the house.

MR. KAUFMAN: The Government offs Exhibit 12 for identification. [Handing.]

MR. O'ROURKE: Objected to on the basis of irrelevancy.

THE COURT: I will allow it.

***

[Government's Exhibit 12 is now received in evidence.]

MR. KAUFMAN: May I circulate it, your Honor. [Handing to the jury.]

BY MR. KAUFMAN:

Q Now you testified that when you first came to this country you started to work at Better Service Laundry, is that right?

A Yes.

Q And that your work there consisted of folding sheets.

A Yes, the sheets.

Q And that you worked there for approximately four years, I guess until about 1970?

A Yes, more than four years, right.

Q What salary did you earn at Better Service?

A When I first started working I could not recall the salary but towards the latter part of it I earned about $80 a week.

Q $80 a week?

A $86, $85 a week.

Q And was your wife working at this time?

A Yes, all the time she works.

Q And what job did she have?

A She is a seamstress.

Q And do you remember how much she earned between 1966 and 1970?

A Annually she makes about four thousand, a little more or a little less -- $4,000. Every year it is the same.

Q Then there came a time in 1970 when you opened the Wing Chong Laundry at 85 Bayard Street, is that right?

A Yes.

Q And what type of business do you do there?

A In the front part of the store is a grocery store; in the back is a laundry.

Q Well, let us focus on the laundry for a second.

Is that a type of store where people bring their clothes, their shirts or whatever to be cleaned and pressed?

A Yes.

Q And you either do that work on your premises

or you send that out to a place like Better Service Laundry, is that right?

A The majority is sent somewhere else.

Q Say to clean a shirt, how much do you charge to clean a shirt?

A One shirt is 70¢, but if it is three, then is 50¢ for each shirt.

Q Do you do other things like cleaning and pressing suits and clothes, I suppose?

A Only wet wash. The sheets I iron -- pressing.

Q And is that laundry business very profitable?

MR. O'ROURKE: Objection to the form of the question.

THE COURT: Sustained as to form.

Q Do you recall how much you netted as a profit, if you netted any profit the first year that you had that laundry?

A In the beginning there wasn't much business because I have most parts of that year redecorating the laundry.

Q Let me ask you, when you came from Hong Kong to the United States did you come with much money?

MR. O'ROURKE: Objection to the form of the question, "much".

Q Did you come with any money?

A Yes.

Q How much?

MR. O'ROURKE: Objection. It is irrelevant.

THE COURT: Overruled.

A A few thousand dollars.

THE COURT: A few thousand dollars?

THE WITNESS: Yes, a few thousand dollars.

Q Do you recall how much your laundry earned you as a profit in 1971?

A The profit is about a few thousand.

Q What about 1972?

A In the beginning it's about a little over ten thousand -- seventeen thousand.

Q Seventeen thousand?

A Yes.

Q Is that just for the laundry or is that for the laundry and the grocery business as well?

A Including everything.

Q Did you just recall that from your memory or did you check that figure before you came here today?

A I remember.

Q You remember from 1972 what your profit was?

A I do not know the exact amount. I am just saying

roughly, approximately.

MR. KAUFMAN: Will you please mark this as Government's Exhibit 13.

*** [Government's Exhibit 13 marked for identification.]

BY MR. KAUFMAN:

Q I show you Government's Exhibit 13 for identification and ask you if you can identify that. [Handing.]

A [After examining.] I recognize it.

Q And does your signature appear there, on the bottom of the first page?

A Yes.

3
Q.2 Q Can you tell us what this is?

A It is the income tax report.

MR. KAUFMAN: The Government offers 13 for identification. [Handing.]

MR. O'ROURKE: May we approach, your Honor?

[The following takes place at the side bar:]

MR. O'ROURKE: Mr. Kaufman is offering in evidence a copy. He did not ask me to stipulate or anything on this.

MR. KAUFMAN: No. I did not know whether or not I was going to be able to use it. That is the copy

that we received from the Internal Revenue Service. I do not know if they turn over the original return as a matter of course. That is a Xerox copy, and that is why I asked the witness if he identified his signature.

MR. O'ROURKE: Well, I would object to it on that basis, and also on its relevancy. There is nothing in there to impeach his credibility.

THE COURT: When you say, "on that basis", what are you referring to? You said you object to it, "on that basis." On what basis?

MR. O'ROURKE: On the basis that it is a copy, Number 1, and, Number 2, on the basis that it is not relevant.

THE COURT: The witness testified that he had an income in that year of $17,000, didn't he?

MR. KAUFMAN: Yes.

THE COURT: Doesn't that show what the income was, 17,000 and some hundred dollars?

MR. KAUFMAN: Yes, but I want to --

THE COURT: You want to what?

MR. KAUFMAN: I want to ascertain it definitely and also show that it includes --

THE COURT: Well, you can question him about it. I will allow you to question him about it. This

doesn't contradict his testimony in any way.

[In open court:]

BY MR. KAUFMAN:

Q Mr. Ng, would that $17,000 or approximately that you say you netted in 1972, would that also include any salary your wife may have received in that year?

A Yes.

Q Did you have any other sources of income in 1972?

A Income? No.

Q Your sole source of income in 1972 was from the laundry and food store at 85 Bayard Street, and your wife's salary, is that right?

A Yes.

Q And that was approximately $17,000?

A Yes.

Q Did you have various bank accounts in 1972?

A I also have a checking account.

Q The question was, did you have various bank accounts, whether they were checking or savings accounts, in 1972?

A Yes, some belong to my children.

Q Did you have a savings account at the National Bank of North America?

A Yes.

Q Was that a checking or savings account?

A There is a checking and there is a savings account.

Q Let's refer to the savings account. Was that your savings account?

A Yes.

(Government's Exhibit 14 marked for identification.)

Q I show you what has previously been marked number 7 for identification and ask you if you can identify that.

A Yes, I recognize this.

Q Tell us what it is?

A It is my savings account in the bank.

MR. KAUFMAN: Your Honor, the Government would renew the offer on this exhibit.

MR. O'ROURKE: I interpose the previous objection.

THE COURT: You can question him about the items there. You don't prove anything.

MR. KAUFMAN: Can I refer to the items in here

without it being in evidence?

THE COURT: Yes, ask the witness about them.

Q I ask you to look at this and can you tell us what the balance in your account was prior to July 25th, 1972?

A 4,000.

Q Well, a deposit was made on July 25th in the amount of $2800.

MR. O'ROURKE: Objection, your Honor. It is irrelevant.

THE COURT: Let him call his attention to it. Overruled.

Q Before the deposit was made on July 25th what was your balance?

A 1200.

Q And then are there a number of deposits during the months of August, September, October, November, December of 1972 and January of '73?

A Yes.

Q As of January 2nd, 19 -- let's refer to February 9th, 1973, approximately six or seven months later, what was the balance in your account?

A $14,997.

Q That is an increase of approximately $13,700 since

the previous July, is that right?

A Yes. Some of the money there came from friends that have borrowed before and returned them and some of them belonged to my children.

Q Did you have friends who borrowed in excess of a thousand dollars from you?

A Yes.

Q You were in the habit of lending out thousands of dollars?

A Yes.

Q Where did you get the money from to lend out thousands of dollars?

A in 1972 I was very prosperous in my grocery store and I also asked my friends to start returning money to me.

Q We know how prosperous your grocery store was, our grocery store, your laundry and the salary your wife made totals $17,000. Isn't that right?

A Yes.

Q Do you also have a checking account in the National Bank of North America?

A Yes.

Q And under what name?

A Also Wing Chong.

Q When you say also Wing Chong, was Wing Chong the name of this savings account?

A No. There are some accounts that is in trust funds for my children and with my name is on there plus my children's name. Which bank are you talking about?

Q This savings account we were just talking about, that is listed under your true name of Suey Wing Ng; isn't that right?

A Yes.

Q Now, did you have a checking account at the National Bank of North America under the name of Wing Chong?

A Yes.

xx (Government's Exhibit 14 marked for identification.)

Q Was this a business account or a personal account?

A Business account.

Q Looking at the first page of number 14 for identification, can you tell us what your opening balance was in that account at the beginning of July, 1972?

A $3,300 something dollars.

Q Approximately $3300?

A Yes.

Q Then did you make a number of deposits and withdrawals from this account over the next few months?

A Yes.

Q As of January 31st, 1973, about six or seven months later, what was your closing balance?

A 12,300 something dollars.

Q And during that month did that account reach as high as approximately $15,200?

A Yes.

THE COURT: When you say that month, the month of January, 1973?

MR. KAUFMAN: January, 1973.

A What month is that?

MR. KAUFMAN: January, '73.

THE WITNESS: Yes.

Q And that represents an increase of approximately $12,000 in that account from the previously July?

A Yes.

Q Well, that checking account increased by approximately $12,000, your savings account increased by 13,700, that is over $25,000 that just those two bank accounts increased over the last five months of 1972 and the first month of 1973.

And yet you testified that the total amount of

money that you netted for the whole year of 1972 was only 17,000?

MR. O'ROURKE: Your Honor, I object. That isn't necessarily inconsistent.

MR. KAUFMAN: I haven't asked the question yet, your Honor.

Q Can you tell us where that extra money came from?

MR. O'ROURKE: Objection, your Honor. Objection to "extra."

THE COURT: Where the difference came from. Do you object to that, Mr. O'Rourke?

MR. O'ROURKE: Yes, your Honor.

THE COURT: All right, reframe your question then.

Q Mr. Ng, you testified that from all your sources of income in 1972 you netted approximately $17,000?

A Yes.

Q And yet two of your bank accounts for the last five or six months of 1972 and the first month of 1973 showed a net increase of in excess of $25,000. The question is, since you only netted income in that year of 17,000, can you tell us what accounts for the additional amounts of money by which your bank accounts increased?

MR. O'ROURKE: Objection, your Honor.

THE COURT: Overruled.

A My friends loan me the money because I was gathering the money to start a business.

Q You started your business in 1970, over two years earlier.

A I wanted to gather all the monies, that is why I borrowed my friend's money because I wanted to start a bigger business.

Q Did you start a bigger business?

A It is still in the process. It is not completed yet.

Q Over two and a half years later?

A It is not successful, that is why I went back to Hong Kong to handle the procedure.

Q You went back to Hong Kong?

A Yes.

Q When did you go back to Hong Kong?

A February 1974 till August.

Q How much money did you borrow from these friends in 1972?

A In the beginning I borrowed $16,000.

Q Did you repay these loans?

A No.

Q Did your friends charge you any interest?

A No.

Q What friends are these?

A Some are my friends, some are my relatives.

Q Did you have other bank accounts at this time?

A No, except for the children.

Q Well, did you have four bank accounts at the Manhattan Savings Bank?

MR. O'ROURKE: May we have the year, the time fixed.

MR. KAUFMAN: In 1972.

A Yes, my children. They are my children's accounts and my wife's accounts.

Q And are you named on the accounts?

A My children are still young. That is why they have to have my name.

Q I understand. Do you recall how much money you had in those accounts in 1972?

A I don't know because the children's account and my wife's account are in their own possession. I didn't take care of those accounts.

Q Let me see if I can refresh your recollection.

A Every year my children put in their money and it is customary for us to give them money at New Years so

that they could save it up.

xx (Government's Exhibit 15 marked for identification.)

Q I show you Government's Exhibit 15 marked for identification and ask if that refreshes your recollection whether or not you had a bank account at Manhattan Savings Bank.

A This is my son's name and this is my wife's name

It is not my name.

Q And as of August 14th, 1972, did you have approximately $7700 in that account?

A You have to ask them. This is not my account.

Q You do not know anything about this account?

A My children take care of their account now that they are growing up.

Q Well, whose money is in this account, your money or your wife's money or your children's ?

MR. O'ROURKE: Objection.

THE COURT: Objection sustained.

Q The loans that you received from these friends were they by cash or by check?

A Cash.

Q People loaned you thousands of dollars in cash?

A Yes.

Q And you deposited that cash in your bank account?

A Yes, unless I deduct some for expenses.

Q Mr. Ng, isn't it true that the difference, that additional money was money that you derived from selling heroin?

A No.

Q Isn't it true that the thousand dollars or $2,000 that you deposited in a periodic time frame into these bank accounts represented your share of the profits from selling heroin?

A No.

Q Where did you get the $30,000 to put down as

a down payment on your house?

A We are shareholders. My two sons are working, so they contribute to the sale of the house, my wife and myself.

Q Whose name is the house in?

A Four names.

Q How much money did you contribute?

A Less than $10,000 -- eight thousand something dollars, and one thousand dollars for handling fees -- those I paid out -- less than ten thousand.

Q You had the number of the Viking Club in your telephone book, is that correct?

A Yes.

Q Did you ever give that number to Lam Kin Sang?

A No.

Q Did you ever tell Lam Kin Sang if he needed to reach you he could reach you there immediately?

A No.

Q Did you ever hear in the Chinatown community that Lam Kin Sang sold heroin?

A No.

Q And wasn't it really common knowledge that Lam Kin Sang was dealing in heroin?

MR. O'ROURKE: Will you fix a time, please?

Q In 1972.

A When he disappeared suddenly, then I heard somebody say he was involved.

Q When was that?

A In the beginning of 1973.

Q You say you saw him once at the Hong Gong Restaurant and had a very brief conversation with him, is that right?

A Yes, he approached me.

Q And then the next time you saw him was in your store when he asked to borrow $200.

A That's correct.

Q And you gave him $200.

A Yes.

Q Did you have that cash right on hand?

A From my store -- I have the money in the store.

Q And did you talk to Lam to find out what he was doing or what sources of income he had so that you could find out reasonably whether or not you could expect to be paid?

A I didn't ask him.

Q You just loaned $200 to somebody whom you really barely knew?

A He is my aunt -- he is a distant relative.

Q Well you said you had seen him once in Hong Kong in 1960.

A Yes.

Q And once for a very brief time at the Hong Gong Restaurant.

A Yes.

Q So you didn't really know him very well, did you?

A I know him because my uncle's daughter is married to him.

Q But you hardly had ever seen him, is that right?

A Yes, I know him but I seldom see him.

Q You do not know him personally, isn't that true?

A I do not know him very well but I know he is a relative.

Q And yet you were willing to loan him $200, at a time when you were going around borrowing thousands of dollars to expand your business, is that right?

A I borrowed not only a few thousand dollars from my friends.

Q You borrowed a lot of money, isn't that right?

A Yes.

Q And you were trying to expand your business, right?

A Yes.

Q And when you were trying to get money wherever you could, in comes a person whom you hardly know and you do not know what he does for a living and you agree to loan him $200, is that right?

A It's not -- $200 I could always afford but I didn't say I am very tight about money.

Q You reported a couple of weeks later that Lam Kin Sang came back for more money, is that right?

A Yes.

Q And you loaned him that even though he hadn't paid you the first 200?

A That is why I gave him $100.

Q Well did you ever ask him, you know, when you are going to be repaid -- what was Lam doing for a living, so that he could get the money to repay you?

A The second time I did ask him.

Q What did he say?

A He said a few days later.

Q Did you ask him how he was going to get the money?

A No. The Chinese people, they mind their own business.

Q Then there came a time when he asked you for more money -- right?

A Yes.

Q And you turned him down -- right?

A Yes.

Q You said he was very unhappy -- right?

A Yes.

Q Is that why you believe he has testified here against you, because he is angry at you because you wouldn't lend him another $100 or $200?

MR. O'ROURKE: I will object to the form of that question, your Honor. It calls for the operation of the witness' mind.

THE COURT: I will allow him to answer it.

A That was one of the reasons. There are many other reasons. We have family conflicts. His father-in-law runs into problems with me because he was opposed to bringing me over to the country but when he arrived here he forgot all the family on the other side.

Q Who forgot about the family?

A His father-in-law.

Q Lam's father-in-law?

A Yes.

Q Well why should that cause Lam to testify against you?

A I believe that is so, and also the money matter.

Q You say you saw Lam Sang before -- just before his gambling club opened, is that right?

A Yes.

Q Did you ever do any gambling in his club?

A No.

Q How do you know when it opened?

A Oh, the Chinese custom, they have the fire crackers and fire works.

Q They celebrate the opening of a gambling house?

A Yes.

Q How did you know it was Lam's gambling house?

A I did not know it was his gambling house until he came and told me that he has a gambling house nextdoor, but I did not go in to see him.

Q When did he tell you that?

A The first time when he came to the store to borrow money and he mentioned, "I am going to start a business nextdoor soon."

Q Oh, so he did say something about where he would get money, is that right?

A No.

Q When he told you he was going to open a gambling house, didn't you look upon that as business?

A Gambling house is a gambling house.

Q Well, if he were going to open it himself, wasn't it your impression that he was doing it to make money out of it?

A I guess that's what he meant. Gambling -- you have to gamble with your luck.

Q Danny Or also testified against you at this trial. But you say you have never seen him before yesterday.

A Yes.

Q He never tried to borrow money from you?

A No.

Q Do you know why he is testifying here against you?

A I do not understand.

Q Do you have any family problems with Danny Or like you have with Lam?

A No. I don't know him.

Q If you had never met Danny Or before, do you have any idea how Danny Or knew that you had some relationship with Better Service Laundry on Inward Avenue in the Bronx?

MR. O'ROURKE: Objection, your Honor, there is no evidence to indicate that Or knew that Mr. Ng had a

previous relationship with Better Service.

THE COURT: I will allow him to reframe the question to cover the area.

Reframe your question. Let us move along now. I think we have reached the outer limits of cross-examination.

Q Mr. Ng, you said in 1972 you went to Virginia. Do you recall in what month?

A Around October.

Q And how long did you stay there?

A I was there right up to Thanksgiving, and then there was some error in my papers. They spelled my last name, "N-G" -- instead of spelling "N-G", they spelled it, "N-E", so I had to notify them.

Q And why did you go to Virginia?

A I went to apply for a driving license.

Q Why did you go to Virginia for a driving license?

A I also intend to visit all my relatives there, because I have been here I never visited them.

Q Well, did you have a New York driver's license?

A Now I have changed it to New York.

Q Well, why in 1972 did you need a Virginia driver's license?

A Because over there they allowed me to use a dictionary in my exam because I did not understand English very well.

Q They wouldn't allow you to do that in New York State?

A Not allowed here.

Q Did you ever try to take the New York State driver's exam?

A Now I acquired a license here.

Q Back in 1972 did you try to take it?

A No.

Q And were you in Virginia continuously from October until Thanksgiving?

A Yes, roughly around Thanksgiving.

Q Did you ever come back to New York during that period?

A Yes.

Q You did come back?

A Yes.

Q Well, the question is, how many days in total were you actually physically in Virginia?

MR. O'ROURKE: The second time.

MR. KAUFMAN: I did not say "second time." I said, "actually."

A When I went to re-correct my application, I stayed there for about more than a week.

tk.

Q During what month?

A I have to go home and look at the papers before I could remember.

Q Well, you were not in Virginia continuously from October until the end of November; isn't that right?

A In October I have stayed there for about two weeks. I went there to learn how to drive the automobile.

xx (Government's Exhibit 7A marked for identification.)

Q I show you Government's Exhibit 7A for identification and ask if that refreshes your recollection that at least on November 6th, 1972, you were in New York.

A That's correct.

Q Didn't you on that day deposit $1200 into your savings account?

A Yes, I did.

MR. KAUFMAN: May I have one moment, your Honor?

(Pause.)

MR. KAUFMAN: No further questions, your Honor.

xx REDIRECT EXAMINATION

BY MR. O'ROURKE:

Q Mr. Ng, how old is your oldest son?

A 27 years old.

Q And what does he work in?

A He studied for his Ph.D as well as working at the same time.

Q Who is he working for?

A IBM.

Q Did he contribute to the down payment for the purchase of your home?

A Yes, he has a share, and he give almost the same amount.

Q And you have a second son. How old is he?

A The second son is 16 years old.

Q With respect to the expansion of your business, were you negotiating with officials or people in another country?

A At that time the Red China is putting out products and it was a very popular product and I am trying to gather the money and go back to Hong Kong and start a business in Red China for imports and exports.

Q And you had been slowed down by red tape?

A No, we were negotiating about the prices.

Q With respect to a question Mr. Kaufman asked you -- I will paraphrase it -- something to the effect that you lent thousands of dollars to people, do you recall that question?

MR. KAUFMAN: I don't know if I asked did he loan

a thousand dollars or borrowed a thousand dollars.

Q Borrowed. Do you recall that question?

A You mean I borrowed or I would loan it to somebody?

Q Did you borrow from somebody?

A Definitely.

Q And did you also lend to somebody?

A Before, yes, but within that short time, no, very, very seldom.

Q What year did you lend money to somebody?

A When I first arrived I didn't need -- I didn't have much to do and I loaned my money to my friends.

Q What is the most you lent to one particular individual?

A I would say about two or three thousand, but the most amount was borrowed in Hong Kong.

Q With respect to the money that you borrowed, did you borrow it from more than one or two people?

A About three or four people.

Q Did you have occasion to borrow any money from any organization?

A I do not know the other association.

Q Did you borrow money from any individual or organization that gave you a card or some physical evidence

for borrowing?

A Yes, that is it.

Q And do you have that card with you?

A Yes.

Q May I see it, please?

A Yes. This is the money that I have borrowed and my children have no knowledge of.

MR. O'ROURKE: May I have this marked for identification, please?

xx (Defendant's Exhibit A marked for identification.)

Q I show you this, Defendant's Exhibit A for identification, and ask you if you can identify it.

A Oh, this is the money that I borrowed from the association.

Q What is the name of the association?

A The English name I do not know how to read, but it is the Lia Association.

Q Did you say you don't know how to read?

A New York League Fed. F-e-d -- Federal.

Q New York Life Federal Credit Union?

A Yes.

Q Would you look at that, please, and tell the Court and jury the date of the first entry?

A August 12th, 1973.

Q How much did you borrow?

A I have $5 down for balance and in August 15, 1973, I borrowed $6,000.

MR. KAUFMAN: Objection, your Honor. The cross examination had to do with --

THE COURT: This is long after any event based on evidence with respect to alleged conduct on the part of this defendant.

MR. O'ROURKE: Your Honor, I thought --

THE COURT: Confine your questioning for the period up to January 1973. What has this got to do with it, August 1973? Would you agree on that?

MR. O'ROURKE: Yes, I agree.

THE COURT: All right, the question is withdrawn.

Q With respect to your checking account under the name of Wing Chong.

A Yes.

Q Is that the name of your business?

A My store's name.

Q And did you pay your business bills from that checking account?

A Yes.

Q Was it your habit to place the receipts of

your business into that checking account?

A Yes.

MR. O'ROURKE: Thank you.

THE COURT: If there are no other questions, the witness is excused.

(Witness excused.)

THE COURT: Now will counsel come up again? I want to get some idea of time. We are somewhat behind our time schedule.

Off the record.

(Discussion off the record at the side bar.)

(With the consent of Government and defense counsel, Juror No. 2 was excused.)

THE COURT: Mr. Clerk, would you swear in Alternate No. 1.)

(Alternate Juror No. 1 took place of Juror No. 2.)

THE COURT: Alternate Juror No. 2 will move over to Alternate Juror No. 1's seat.

We have that housekeeping taken care of.

Mr. O'Rourke, from what you said the defendant rests?

MR. O'ROURKE: Yes, your Honor.

THE COURT: The Government rests?

MR.KAUFMAN: Yes.

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THE COURT: Both sides rest. We will excuse the jurors and you will hear summations in a matter of about ten minutes.

Counsel have given some idea of time. We should be concluded about 5 o'clock with summations and then we will go over for the Court's charge.

Remember we won't be through with the case until tomorrow and bear in mind my original instructions that you are not to discuss among yourselves or with anyone else until after my charge.

(Jury left the courtroom.)

(At the side bar.)

MR. O'ROURKE: The defendant renews the motion for judgment of acquittal at the end of the Government's entire case.

THE COURT: Motion denied.

And will you gentlement try to keep within your time, please.

MR. O'ROURKE: Yes, your Honor.

MR. KAUFMAN: Yes.

(Recess.)

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MR. KAUFMAN: May it please the Court, Mr. O'Rourke, ladies and gentlemen:

Unfortunately my summation will have to take a little bit longer than Mr. O'Rourke. As you know, the Government has the burden in this case of proving the guilt of the defendant beyond a reasonable doubt, and therefore, it is my obligation to review with you in some detail, number one, what the facts are that were proved at this trial.

Now, the trial took about three days and it hasn't been that long so that the facts should have been forgotten, but it is my obligation to review them to a certain degree.

Now, the Government showed that sometime in the summer of 1972 Danny Or bought about a pound of heroin from Lam Kin Sang and Lam Kin Sang testified that pound was from a source other than the defendant Ah Suey.

And then after that Danny Or knew somebody by the name of Ah Sa. Ah Sa had recently gotten out of jail and Ah Sa came to live with Danny Or and Ah Sa told Danny Or "I know somebody we can get heroin from, we don't have to pay for it up front. We can get the heroin, we can sell it, get our money from somebody and then pay the source for the heroin."

And that was much more preferrable for Danny Or, because Danny Or when he was up at Lam Kin Sang had to pay for the heroin first, couldn't get it before he paid for it.

Ah Sa had to contact this person and that person was a person by the name of Wing Chong. As we know that person is the defendant Suey Wing Ng and Danny Or met Wing Chong at Wing Chong's laundry on Bayard Street. Wing Chong already knew Ah Sa. It wasn't a question of Wing Chong trying to do business with a perfect stranger, he already knew Ah Sa.

They drove up to the Bronx. And in the Bronx at the Better Service Laundry, a place where Wing Chong previously worked, Wing Chong received a package from somebody and turned that package over to Danny Or and Ah Sa. As we know, that package contained a pound of heroin and Danny Or sold it for $1200 an ounce and sold ten ounces for a total of $12,000 and out of that he gave 7,000 to Ah Sa to pay Wing Chong, and Danny Or accompanied Ah Sa to the laundry to make that payment.

Now, there were two more transactions that went off in similar fashion. I don't have to review the details of them. You recall that Ah Sa met with Danny Or on two subsequent occasions, drove up to the same laundry in the Bronx and purchased two more packages of heroin from the defendants. On the last occasion Danny gave the money to Ah Sa to pay Wing Chong. Ah Sa was then deported and when Danny went to Wing Chong himself to ask for more heroin, Wing Chon told him

no, he wasn't going to give him any more heroin because he'd never been paid for the previous pound and a half. And it was at that point that Danny had to go find another source of heroin and it was at thatpoint that he went back to Lam Kin Sang and bought two more shipments of heroin from Lam Kin Sang.

At that point Lam Kin Sang had already established his connection with the defendant and Lam Kin Sang knew the defendant by the name of Ah Suey. And he had already purchased a pound and a half of heroin from Ah Suey and sold it to the Chan brothers. And the price for that pound and a half of heroin was $11,500.

You remember Lam Kin Sang testified that he had been partners with the Chan brothers and he sold it to the Chan brothers for $11,500, the amount of money that Lam had to turn over to Ah Suey, and Lam didn't make a penny on that deal because he was doing it as a favor to the Chan brothers.

Mr. O'Rourke asks where are the Chan brothers to testify here about what went on? Well, there are a couple of answers to that.

Number one, there is no testimony that the Chan brothers did any business with the defendant. So their testimony would be useless, it wouldn't have anything to do with the defendant.

Number two, if we could have the Chan brothers here, they wouldn't be here as witnesses, they would be subject to prosecution themselves and there is no reason to believe they would be willing Government witnesses.

Now, at this point Danny Or comes back to Lam Kin Sang, asks him if he has any heroin. Lam Kin Sang says, "Yes, I can get you some." And Lam Kin Sang and Danny Or have the two transactions.

Both times Lam Kin Sang -- excuse me, both times Danny Or wants to buy a pound and a half from Lam Kin Sang and the price is $16,500. The first deal went down and Danny Or paid for it; and you recall what happened in that deal. Ah Suey gave it to Lam Kin Sang for $11,500. Lam Kin Sang gave it to Danny Or for $16,500. Danny Or sold it to Rafael Colon, also known as Baby, for $19,500 and Danny and Baby sold it to the undercover New York City Policeman.

And that right there gives you a microcosm of how heroin deals go down. As the heroin proceeds through the pipeline every person who gets his hands on it jacks up the price a little bit so they can get their cut of the action.

Presumably that is what the defendant was doing. He was charging $11,500 for it. He had to get it from somewhere and he had to pay for it, too. And you may infer that on each one of these deals the defendant had to make a

profit of a few thousand dollars.

Mr. O'Rourke said all these bank records don't mean anything in this case, there is no proof of anything. I think he is dismissing those bank records a little too easily, because those bank records show, and the defendant admitted it, that during the time period he had a number of deposits into these accounts amounting to thousands of dollars.

Now, obviously the Government can't prove that each one of those deposits came from any particular transaction, but those deposits show that the defendant's bank accounts over a period of five months, increased by an amount of $8,000 greater than the amount he earned in the whole year. He earned $17,000 in 1972. Yet from July to January he was able to increase his bank accounts by in excess of $25,000.

He said he had no other sources of income. I asked him where did that money come from. He said that time he was trying to expand the business so he borrowed money from other people.

Well, I asked him who were those other people. He said his friends, his associates in the area.

Did you see any friend or associate testify that he had loaned money to Ah Suey in 1972 in the amount of

thousands of dollars? Nobody testified to that. Not one of these friends or associates came in here and testified that he had loaned money to Ah Suey. The only thing that Ah Suey tried to show us was that he had loaned money in August of 1973, which is totally irrelevant to the time perio that we are talking about.

Mr. O'Rourke said those records of all those deposits and those increases in his bank accounts had nothing to do with this case because it is not an income tax case. He is just dismissing it all too easily, because there is no explanation of how Ah Suey was able to increase his bank accoounts by amounts greater than the amount that he earned in that year from all his legitimate sources.

And you have to remember he also had living expenses. He earned $17,000. He had to pay the rent. He had to pay for food; maybe he had to pay to send his kids to school. He had the expenses all of us have so he didn't clear $17,000 to put in his pocket. How much money did he have after he paid for rent and food and everything else we all have to pay for? What explanation is there for why he was able to increase his bank accounts by $25,000?

The Government submits the explanation is because that represents the profits that he made on his sales of heroin and every time he sold the heroin he made $2,000 here

or $3,000 there, depending on how much he had to pay for it. And that is how he increased those bank accounts and that is why those bank accounts are relevant.

As you recall the details of the second deal that Lam Kin Sang had with Danny Or, or as he knew him, Ah Dau, Danny had negotiated for a pound and a half, but this is the deal where, lucky for Dann Or, somebody made a mistake and there was three pounds in that package, not a pound and a half. The day after Ah Suey came to see Lam Kin Sang and told him there was an extra pound and a half there.

Lam Kin Sang went to Danny Or and told him what happened. And Danny Or, who was a guy out for a buck -- no question about it -- denied it. He had an extra pound and a half of heroin he didn't have to pay for. There was no question about that happening. Lam testified about it and Danny testified about it. It shows they testified about the same events.

Then there were three more deals after that. Lam Kin Sang sold a pound and a half to Lam, sold a pound and a half to Kam Shui. You recall Kam Shui was the person who worked in the gambling club. And that was the sale for $14,000. And the reason why Lam sold it for less than he usually did because Ah Suey had delivered it to him before he found a customer and Lamdidn't want to kick it around the

gambling club.

The last deal was the deal with Lee Louie where it was supposed to be a pound and a half and after that Louie told him he was short and he wanted his money back. And Lam called Ah Suey and Ah Suey admitted it. He said, "Yes, I knew it was a pound and a half short."

Do you think Ah Suey was trying to do that to try to recoup his losses for the pound and a half he lost when he made the mistake in the Danny Or transactions?

On all these six deals that Lam Kin Sang had his testimony was that that heroin came from the defendant Ah Suey. The first four transactions Lam Kin Sang told you that Ah Suey didn't give him theheroin directly. They made arrangements for it over the phone. Ah Suey told him where it would be and Lam Kin Sang told him where to get it.

If Lam Kin Sang was lying to you about all these transactions, if he was here to help himself by trying to put Ah Suey behind bars, if he was going to lie to you about it, wouldn't he say that Ah Suey just handed him the stuff? If you are trying to make the guy look as bad as possible, you say that, you say, "I went up to his place and Ah Suey gave me the package."

That's not what he testified to. He said, "I didn't see Ah Suey that night. We just went to the club and

we got the package."

Mr. O'Rourke said the testimony sounds unbelievable because why would somebody leave $11,500 worth of heroin lying on the floor. If you recall Lam Kin Sang's testimony he was quite specific. He said when he called Ah Suey, Ah Suey said, "Come to the Viking Club, Canal Street at a particular time and at that time that bag will be there."

Lam told you he couldn't remember what the time was -- it was over two years ago -- but he remembered that Ah Suey told him he had to be there at a particular time. And Lam Kin Sang was prompt. He would show up with his customers at the exact time and the bag would be there.

Mr. O'Rourke says, "Well, does it sound believable that somebody would just throw a package down and leave it there?"

Well, put yourself in the place of a person who is dealing in heroin. You don't want to get caught. You don't want to have that stuff in your possession any more than Lam Kin Sang wanted to have it hanging around his gambling club.

So Ah Suey was smart, he wasn't going to stand up there holding the thing to turn it over to somebody. He left it in a specified place on the third floor of the building and would have the person come pick it up. That way in

case the cops came for any reason that heroin couldn't be linked to him; he's sitting somewhere else, he's not holding the stuff.

Now, the evidence is clearly there. The evidence from the Government's witnesses clearly shows that Ah Suey or Wing Chong or Suey Wing Ng, or whatever name he happens to be going by, sold heroin on three occasions to Danny Or and on six occasions to Lam Kin Sang. And that amounted to a total of about 13 and a half pounds of heroin.

The issue for you to decide is really do you believe the testimony of Lam Kin Sang and Danny Or? And Mr. O'Rourke says you shouldn't believe it, they are convicted felons, they are doing hard time in jail, they will say anything to get out of jail.

Well, let's look at Lan Kin Sang and Danny Or. The first thing, they are self-admitted participants in this whole heroin trafficking scheme. The Government told you about them in the Government's opening statement and the witnesses admitted it right up front. They weren't hiding it.

Remember I toldyou in my opening you weren't going to like them, they were people who dealt in this kind of stuff, no question about it. But Mr. O'Rourke asks you, "How can you convict Ah Suey on the basis of the testimony of Danny Or and Lam Kin Sang, these convicted felons."

Well, as Mr. O'Rourke said to you, use your common sense. People who deal in heroin, who do they deal with? Are you going to go to the local policeman and deal in heroin with a policeman? Are you going to go to your local clergyman and deal in heroin with your local clergyman? Are you going to go to a businessman and deal with the businessman? Of course **not.** You deal with people like Danny Or and Lam Kin San who deal in heroin and when a person like Ah Suey chooses to deal with those people he should not be heard now here in Court to say "How can you convict me based on their testimony."

They are the people he chose to deal with and they are the people who know about him.

As I told you in my opening, they are the people qualified to testify here because they were there, they know what happened. When you are a man like Ah Suey supplying heroin to different customers you are not going out on the streets and doing it and broadcasting it to the world. You are keeping it secret and you try to keep the number of people who know about you to a minimum. And who else would know about you except the people with whom you are dealing?

That is why the Government has no choice but to put people like Lam Kin Sang and Danny Or on the witness stand because they are the ones who would know. They are

the only ones who could know.

The issue in this trial isn't whether Danny Or and Lam Kin San are bad people. We know they are bad people, no question about it. But justice has been served with respect to Lam Kin Sang and Danny Or. Lam Kin Sang is doing up to 15 years in jail and Danny Or is doing 15 years to life. Sure they are bad people and they have been punished. The issue in this trial isn't whether they are bad. The issue in this trial is whether or not the interests of justice are going to be satisfied with respect to Ah Suey.

Now, Mr. O'Rourke said they are lying. But only in certain aspects. Really Mr. O'Rourke is saying most of what Danny Or and Lam Kin Sang tells you is the truth, believe them when they say they are heroin addicts, believe them when they say they sold heroin, believe them when they say they are illegal aliens. Mr. O'Rourke just said they are just lying about one particular point and that particular point is that Ah Suey sold them heroin.

Now, again, let's analyze the narcotics business. By the nature of the crime it involves many people. Trafficking in heroin isn't something you can do by yourself. If you are selling it to somebody, you have to have gotten it from somebody else. Both Danny Or and Lam Kin Sang sold heroin. By definition they had to receive it from somebody

else. So by definition both Lam Kin Sang and Danny Or have a true story to tell about somebody, about the person from whom they received their heroin.

What advantage is it to Danny Or and Lam Kin Sang, if Mr. O'Rourke's theory is right, for them to come in here and lie about Ah Suey when they have a true story to tell about somebody else? Why subject themselves to the penalties of perjury when they have a true story to tell about somebody else? And why out of all the people did they pick Ah Suey to lie about? What was the motive?

Well, with respect to Lam Kin Sang, he suggests it was because there came a time when he refused to lend Lam Kin Sang a hundred dollars or $200 because there may have been some family trouble back in the sixties. All of a sudden here in 1975 Lam Kin Sang is going to come in here, risk the penalties of perjury to lie about him because Ah Suey wouldn't lend him a hundred dollars two and a half years ago. Is that a motive to lie?

What about Danny Or? Nobody has been able to suggest any personal reason why Danny Or would have to lie about Ah Suey. The reason that Mr. O'Rourke said is because they would say anything to get out of jail. Well, the Government hasn't hidden the fact that they have a motive to cooperate. Sure, they are here, they are cooperating and

they are hoping that they can get out of jail sooner; no question about it. They hope that the judge who sentenced them, or any judge who happens to be in charge of this case may let them out of jail sooner because they cooperated with the Government. The fact that a person has that motive to cooperate doesn't mean that he has a motive to lie. If anything, it means he has a motive to tell the truth about the people he actually dealt with when he was involved in narcotics.

Now, you remember the witnesses when they were on the witness stand, especially Danny Or. With respect to Danny Or and Lam Kin Sang, when they were being cross examined by Mr. O'Rourke I don't know if you picked it up--maybe you did -- Mr. O'Rourke had a technique of talking about a particular transaction and then either intentionally or unintentionally misstating a fact, saying, "Now, isn't it true, Mr. Or, that when you had that third transaction at the laundry in the Bronx with Wing Chong in December of '72 then you went to go see him at his laundry store."

Now, there is a misstatement in there because Danny Or testified on direct when he had his third transaction up in the Bronx with Wing Chong that was about the end of October 1972, and in December he was already dealing with Lam Kin Sang. Maybe Mr. O'Rourke was trying to trip

him up, trying to show you that it was just a made up story and he could easily be fooled. Danny Or wasn't fooled, because his answer to that question was, "Mr. O'Rourke, you are wrong, I didn't go to the Bronx in December of '72, it was in October." And this happened again and again and again.

And the witnesses would not be confused. If they were lying, if they were making this up, could anybody be that good, can anybody learn a phony story that well not to be tripped up? Doesn't it have the ring of truth that when somebody misstates a fact to you you are able to pick it up?

Mr. O'Rourke says Danny Or is lying about Ah Suey to get out of jail, and yet you heard testimony here that Danny Or didn't even talk to the Government about the defendant until about a week or two ago when he was shown a photograph of him; that he had been approached about a year ago and asked about Lam Kin Sang and Danny Or agreed to cooperate, and he cooperated.

And then about a week ago he was shown a picture of the defendant. He said, "Sure I know him, I know him as Ah Suey and I dealt with him." What motive is there to lie at that point, almost a year after you already agreed to cooperate?

Mr. O'Rourke says, "Isn't it remarkable the memory of these two people." I don't know how remarkable

their memory was. They remember transactions, they remember prices, but they didn't remember dates, sometimes they had difficulty remembering months. Mr. O'Rourke would have you believe that these people are just expert liars, that they know how far to go in making up a story with specific detail and then knowing when to stop and not give any more detail because it would sound too made up. And then he says, "Isn't it remarkable that Danny Or could remember that he had his two deals with Lam Kin Sang in December of 1972. Could you remember something that happened to you in December of 1972?"

There is an easy answer to that, and Danny Or gave the answer right from the witness stand. He said the reason why he knew it was in December 1972 was because those were the transactions he was charged with and he was convicted of in the State Court and his indictment charged him with selling heroin on two occasions in December 1972. And that is why Danny Or remembered it was December of 1972, not any malicious reason on his part to make the story sound good but not too good.

And if these witnesses were here to make their stories sound good, would they allow such an inconsistency like Lam Kin Sang and Danny Or had about the times they went to 179 Canal Street? Mr. O'Rourke is right, that inconsistency was obvious. Lam Kin Sang said he never went in to

179 Canal Street And Danny Or said "Yes, Lam Kin Sang went up the stairs and I followed him and he gave me the package."

If they are lying, if they are here to lie and get their stories straight, would they allow such an inconsistency? It doesn't make any sense. What does make sense is that those witnesses are telling you the truth as best they can recollect it.

With respect to both Lam Kin Sang and Danny Or, as I mentioned once before -- it is important enough to state again -- if they are going to lie about the defendant Ah Suey, aren't they going to say as many bad things as they can about him? Isn't Lam Kin Sang going to say that on all six occasions that he dealt with Ah Suey, Ah Suey handed him the package? But again that is not what he said. As you recall, the first four times he said Ah Suey didn't hand him the package, he just left it for him somewhere and then later came to pick up his money.

Danny Or said that on the three occasions up in the Bronx, he had direct dealings with the defendant Wing Chong, but that when he was dealing with Lam Kin Sang, he never saw Wing Chong, he didn't know that Wing Chong was the source of that heroin. If Danny Or was going to lie here, wouldn't he make Wing Chong sound worse than that? Wouldn't he say, "Oh, sure, Lam Kin Sang told me that Wing Chong

was selling the heroin." But that is not what he said.

You have had two witnesses here come in and tell you the story of their involvement in heroin trafficking. Are they both lying? Did they lie, independently decide to lie about the same individual? Why? Why would they do that? It just doesn't make any sense.

When you are thinking about that, think about the other evidence that the Government has put before you. Think about the telephone numbers that the defendant had in his phone book. He had the telephone number of the Hong Kong Restaurant where Lam Kin Sang was working and where he first met. He had the telephone number of the Better Service Laundry where Danny Or said he did three deals with Wing Chong and the defendant had th telephone number of the Viking Club, the place where Lam Kin Sang said he was always able to reach Ah Suey to do the deal.

Think about all these financial records that I talked to you about earlier, about these unexplained deposits and increases in the defendant's worth, money which had to come from some place other than the money he earned in the laundry and the grocery store and from his wife's salary.

Ladies and gentlemen, I submit that when you come back tomorrow and go into your jury room to deliberate after

you hear the law, as his Honor will instruct you, when you think about the evidence, think about the things that have been told to you today, and you will have no doubt at all in your mind as to the guilt of the defendant. Thank you.

THE COURT: Members of the jury, I am just trying to straighten my calendar for tomorrow. I am told I have two matters on at 9:30 tomorrow morning. Again instead of keeping you in and waiting suppose we start at 10 o'clock. I should be through with those two matters in a half hour and then we will start promptly at 10 o'clock.

Again, before I say good night, please renember my instructions to you about not discussing the case among yourselves, or with any other person, or allow any other person to talk to you about the case.

I will look forward to seeing you tomorrow morning.

Good night all.

(Adjourned to March 27, 1975 at 10 o'clock a.m.)

JWP

UNITED STATES OF AMERICA

versus

75 Cr 173

SUEY WING NG also known as "AH SUEY",

Defendant.

March 27, 1975

CHARGE OF THE COURT

THE COURT: (Weinfeld, D. J.) Members of the jury: We are now at the stage of the trial where you will soon undertake your final function as jurors, and here you perform one of the most sacred obligations of citizenship, that is, acting as ministers of justice.

You are to discharge this final duty, as was emphasized by me at the time of your selection as jurors, without bias or prejudice with respect to either the defendant or the Government as parties to this litigation.

Let me add: the fact that the prosecution is brought in the name of the Government, the United States of America, entitles it to no greater consideration than that accorded to any other party to a litigation. By the same token, it is entitled to no less consideration. All parties, whether Government, corporation or individuals, stand alike as equals at the bar of justice.

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Your final rule is to decide the fact issues in the case. You, the members of the jury, are the sole and exclusive judge of the fact. You pass upon the weight of the evidence; you resolve such differences as there may be in testimony, and you draw whatever reasonable inferences may be warranted from the facts as you determine them.

I shall refer later to how you pass upon the credibility of witnesses. My function at this point is to instruct you as to the law. It is your duty to accept these instructions of law and to apply them to the facts as you may find them.

With respect to any fact matter, it is your recollection and yours alone that governs. Anything that counsel, either for the defendant or for the Government may have said with respect to fact matters in evidence are not to be taken in place of or in substitution of your own independent recollection.

So, too, if during the course of these instructions I should refer to a fact that does not accord with your own recollection, again, it is your recollection that governs in all instances.

Before we consider the precise charges against the defendant on trial, some preliminary matters should be noted. The indictment contains seven separate charges against Suey

Wing Ng, also known as Ah Suey and also referred to and identified by one witness during the trial as Wing Chong.

The first count charges a conspiracy. It alleges that Ah Suey, the defendant, and other persons named therein as co-conspirators but not indicted as defendants, conspired to violate the Federal laws prohibiting the illegal distribution of narcotics or possession with intent to distribute such narcotics.

Then there are six additional separate counts, wherein the defendant is charged not with conspiracy but with an actual violation of the law on specific dates, that is, the distribution of narcotics or possession with intent to distribute a narcotic drug -- in this case, heroin.

As I told you during the jury selection process, the fact that the defendant is the only person on trial before you and that others named as co-conspirators are not named as defendants is not to enter into your consideration in your determination of the defendant's guilt or innocence, nor may any adverse inference be drawn against the defendant or the Government by reason thereof. The matter of who is to be named or not named as defendants is determined by the United States Attorney and a grand jury.

As I told you then, guilt is personal. The guilt or innocence of Suey Wing Ng, the defendant here on trial,

must be determined as to each charge against him, solely on the evidence presented against him or the lack of evidence. The charge against him stands or falls upon the proof or lack of proof against him and not against other alleged co-conspirators.

There are certain principles of law which apply in every criminal case and to which I made reference at the time of your selection as jurors, and I repeat them now:

The indictment upon which the defendant is brought to trial is merely an accusation or a charge. It is no proof of any kind against the defendant, and no weight whatsoev r is to be given to the fact that a grand jury returned an indictment against the defendant.

He has pleaded not guilty. Thus, the Government has the burden of proving the charges against him beyond a reasonable doubt. The defendant does not have to prove his innocence. On the contrary, he is presumed to be innocent of the charges contained in this indictment. This presumption was in his favor at the start of the trial, continued in his favor throughout the trial, is in his favor as I instruct you now and remains in his favor during the course of your deliberations in the jury room. It is removed only if and when the Government has sustained its charges against the defendant beyond a reasonable doubt.

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The question, then, that naturally comes up is, what is a reasonable doubt? The words almost define themselves: that there is a doubt, founded in reason and arising out of the evidence in the case or the lack of evidence. It is a doubt which a reasonable person has after carefully weighing all the evidence.

Reasonable doubt is a doubt which appeals to your reason, your common sense, your experience and your judgment. It is not caprice, whim or speculation. It is not an excuse to avoid the performance of an unpleasant duty. It is not sympathy for a defendant.

If after a fair and impartial consideration of all the evidence you can candidly and honestly say you are not satisfied of the guilt of the defendant, that you do not have an abiding conviction of the defendant's guilt, in sum, if you have such a doubt as would cause you as prudent persons to hesitate before acting in matters of importance to yourselves then you have a reasonable doubt, and in that circumstance it would be your duty to acquit.

On the other hand, if after such a fair and impartial consideration of all the evidence you can candidly and honestly say you do have an abiding conviction of the defendant's guilt, such a conviction as you would be willing to act upon in important matters in the affairs of your own lives,

then you have no reasonable doubt, and in that circumstance it would be your duty to convict.

One final word on this subject:

Reasonable doubt does not mean a positive certainty or beyond all possible doubt. If that were the rule, few persons, however guilty they might be, would ever be convicted. It is practically impossible for a person to be absolutely and completely convinced of any controverted fact which, by its nature, is not susceptible of mathematical certainty. In consequence, the law in a criminal case is that it is sufficient if the guilt of a defendant is established beyond a reasonable doubt, not beyond all possible doubt.

A word about the difference between the counts in the indictment:

I have already mentioned that one count, the first, charges a conspiracy to violate the law, to which I shall refer as the conspiracy count. The remaining six counts charge that the defendant committed an actual violation of the law which makes it unlawful for one to distribute or to possess with intent to distribute a narcotic drug. These are referred to as the substantive counts.

A conspiracy to commit a crime is an entirely separate and distinct offense from the substantive crime which is the objective of the conspiracy.

The essence of the crime of conspiracy is an agreement or an understanding to violate other laws. Thus, if a conspiracy exists, even if it should fail of its purpose, it is still punishable as a crime.

A conspiracy, which is sometimes referred to as a partnership in crime, because it involves collective or organized action, presents a greater potential threat to the public interest than the illicit activity of one single individual. Group association or organized activity renders detection more difficult than in the instance of a single wrongdoer.

It was for these and other reasons that Congress made a conspiracy or concerted action to violate a Federal law a crime, entirely separate, distinct and different from the violation of law or laws which may be the objective of the conspiracy.

Thus, Congress has enacted a special law, which provides that any person who conspires to violate the Drug Abuse Prevention and Control Act, the law which is the subject of the substantive counts, shall be guilty of a separate crime.

The Drug Abuse Prevention and Control Act, which charges the defendant and others conspired to violate, and the actual violation of which is charged as a substantive crim

reads in pertinent part as follows:

"It shall be unlawful for any person knowingly or intentionally ... to ... distribute... or possess with intent to ... distribute ... a controlled substance ..."

The Drug Abuse Act was enacted by Congress in an effort to combat the illegal importation, distribution, possession and improper use of narcotic drugs which have a substantial and detrimental effect on the health and general welfare of the American people.

Against this background of the applicable statutes, we turn to a consideration of the specific counts in the indictment. Since the essential elements which the Government must prove in order to sustain the respective charges are different in the instance of each count, that is, the conspiracy as against the substantive counts, we shall consider each separately.

Thus, as to the first, or conspiracy, count, the grand jury charges that from on or about the first day of July 1972 and continuously thereafter, up to and including on or about April 1, 1973, in the Southern District of New York, Suey Wing Ng, also known as Ah Suey, the defendant, and Lam Kin Sang, or Choi Sik, also known as Danny Or, also known as Ah Dan Norman Low, also known as Fatty, Yuk Shui, Chan Yuk Wo, Mui Kai Foon, also known as Hong Wong, Lam Man Chung,

also known as Ja B, Szeto Suey Nom, Keung Kam Shui, Lee Louie, also known as Lee Yook Soon, Rafael Colan, also known as Baby, Jose Millan, John Doe, also known as Juan, and Jane Doe, also known as Anna Ortiz, named herein as co-conspirators but not as defendants, and others, to the grand jury unknown, unlawfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 812 -- and then there are sections of the Drug Control Act which I read to you.

2. It was part of said conspiracy that the said defendant and co-conspirators unlawfully, intentionally and knowingly would distribute and possess with intent to distribute Schedule I narcotic drug controlled substances, the exact amount thereof being to the grand jury unknown, in violation of sections of the Drug Control Act.

Then, following this, the overt acts, which I shall presently read to you.

In order to convict the defendant on trial, the Government must prove beyond a reasonable doubt the following essential elements:

1. The existence of the conspiracy charged in the indictment, that is, an agreement or understanding existed to violate those provisions of law which prohibit the distribution or possession with intent to distribute

heroin.

2. That the defendant knowingly associated himself with the conspiracy, and

3. That at least one of the conspirators knowingly committed at least one of the overt acts set forth in the indictment at or about the time and place alleged.

Now let us consider what is a conspiracy.

The idea of a conspiracy is simple. A conspiracy is a combination, an agreement or understanding by two or more persons by concerted action to accomplish a criminal or unlawful purpose -- in this instance to distribute or possess with intent to distribute a narcotic drug, to wit, heroin.

The gist of the crime is the unlawful combination or agreement to violate the law. The success or failure of the conspiracy is immaterial to the question of the guilt or innocence of a conspirator.

In this case, the Government claims the conspiracy was successful, in that heroin was distributed in consummation of various sales.

To establish a conspiracy, the Government is not required to show that two or more persons sat around a table and entered into a solemn pact, orally or in writing, stating they formed a conspiracy to violate the law or the details or the means by which its object was to be achieved. Common

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sense will tell you that when persons in fact undertake to enter into a criminal conspiracy, much is left to the enexpressed understanding. What the evidence must show in order to establish that a conspiracy existed is that the members in some way or manner, through any contrivance, impliedly or tacitly, came to a common understanding to violate the law or to accomplish an unlawful plan.

In determining whether there has been an unlawful agreement, you may judge acts and conduct of the alleged co-conspirators which are done to carry out an apparent criminal purpose. The adage "Actions speak louder than words" is applicable here.

Usually, the only evidence available is that of disconnected acts and conduct on the part of the alleged individual co-conspirators, which acts and conduct, however, when taken together in connection with each other and considered as a whole permit an inference that a conspiracy existed as conclusively as by direct proof.

In this case, of course, the Government contends its main proof, its direct proof, is based upon the testimony of two alleged co-conspirators.

A conspiracy has sometimes been called a partnership in criminal purposes, in which each member becomes the agent of the other.

To become a member of a conspiracy, a defendant need not know all the other members nor all the details of the conspiracy. Each member may perform separate and distinct acts and at different times. Some conspirators may play major roles while others play minor parts.

You must first determine whether or not the proof establishes the existence of the conspiracy charged in the indictment.

In deciding this first element, you consider all the evidence which has been admitted with respect to the conduct, acts and declarations of each alleged co-conspirator, in this case, Lam Kin Sang, Danny Or as well as those of the defendant, and such inferences as may reasonably be drawn therefrom.

It is sufficient to establish the existence of the conspiracy if from proof of all the relevant facts and circumstances you find beyond a reasonable doubt that the minds of at least two alleged con-conspirators met in an understanding way to accomplish by the means alleged one or more of the objects of the conspiracy as charged in the indictment.

If you do conclude that the charged conspiracy did exist, you next determine whether Suey Wing Ng, the defendant on trial, was a member of the conspiracy. His participation in the conspiracy, if you find one did exist,

must be established by the independent evidence of his own acts, statements and conduct as well as those of the other alleged co-conspirators and the reasonable inferences to be drawn therefrom.

To find the defendant Suey Wing Ng guilty of the conspiracy, you must find beyond a reasonable doubt that, aware of the existence of the conspiracy and of its purposes, he was a willing participant with the intent to advance its purposes. If you do so find, then he is responsible for all that was done in furtherance thereof before and during its continuance.

Once you are satisfied beyond a reasonable doubt that a conspiracy existed and that the defendant on trial was a member, then the acts and declarations of any other person found to be a member during the pendency of the conspiracy and in furtherance of its objectives are considered the acts and declarations of the defendant.

For example, assume you find that a conspiracy as charged existed of which Lam Kin Sang was a member. Then any sale of heroin made by Lam, whether to the Chan brothers or to Danny Or, if you do so find, would be binding on the defendant Suey Wing Ng, if you further find that he was a member of the conspiracy.

So, too, if you find that Danny Or was a member of

the conspiracy, then his sale of heroin to Baby and others, if you further find such sales were made, would be binding on the defendant Suey Wing Ng. This would be true even though the defendant was not present on those occasions.

Summing it up in a simple way, if in fact there was a partnership in crime, each partner acts and speaks for the others in furtherance of the partnership business, even if they are not present.

The existence of a conspiracy and one's membership therein may be established by direct evidence or circumstantial evidence. These are rarely susceptible of proof by direct evidence, although, as I already mentioned, the Government does contend that it has offered direct evidence in this case. Usually, they are established as a matter of reasonable inference based upon circumstantial evidence.

Direct evidence is where a witness testified to what he saw, heard and observed and what he knows of his own knowledge, that which comes to him by virtue of his senses. Circumstantial evidence is where facts are established from which, in terms of common experience, one may logically infer other facts that are sought to be established.

Circumstantial evidence, if believed, is of no less value than direct evidence, for in either case you must be convinced beyond a reasonable doubt of the guilt of the defend-

ant.

The Government here relies upon both direct and circumstantial evidence. If the reasonable inferences to be drawn from any evidence lead to two conclusions, one favoring guilt and the other favoring innocence, then it is your duty to accept that which favors innocence. The reason for this is that if each inference is reasonable, there would be a reasonable doubt with respect to that evidence.

Whether the defendant knowingly and intentionally participated in the claimed conspiracy presents issues of fact. Clearly, these issues concern what is in one's mind. Medical science has not yet devised an instrument where we can go back to the time of the occurrence of events and determine what was in that person's mind then. These may be determined from one's acts, his conduct and surrounding circumstances and such inferences which may reasonably be drawn therefrom.

If you find, for example, circumstances of secrecy, intrigue or attempts to conceal the true nature of a transaction, these may be considered by you as circumstantial evidence of criminal intent or of guilty knowledge.

A word of caution: mere association of the defendant with an alleged co-conspirator or conspirators does not establish his participation in a conspiracy if you find one did

exist, nor is knowledge without participation sufficient. What is necessary, as I have already said, is that the defendant participated with knowledge of at least some of the purposes of the conspiracy and with intent to aid in the accomplsihment of the unlawful end.

If you find the Government has sustained the element as to defendant Suey Wing Ng's participation, we reach the next element. I have already mentioned that the third essential element of the crime of conspiracy is that an overt act, intended to effect the object of the conspiracy, be committed by at least one of the co-conspirators after the unlawful agreement has been made.

An overt act is any step, action or conduct which is taken to achieve, accomplish or further the objective of the conspiracy.

The overt act need be neither a criminal act nor the very crime which is the object of the conspiracy. Thus, in this case, the overt acts listed in the indictment -- and this is under the heading of "Overt Acts"; I will give you a copy of this indictment, so you will have it all before you:

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York.

1. In or about July 1972, co-conspirator Lam Kin

Sang distributed approximately one pound of heroin to co-conspirator Or Choi Sik, also known as Danny Or, and also known as Ah Dau.

2. In or about May or June of 1972, co-conspirator Rafael Colon, also known as Baby, introduced co-conspirator Or Choi Sik, also known as Danny Or, also known as Ah Dau, to co-conspirators Jose Millan and John Doe, also known as Juan.

3. In or about July 1972, co-conspirators Jose Millan and John Doe, also known as Juan, purchased approximately one half pound of heroin from co-conspirator Or Choi Sik, also known as Danny Or, also known as Ah Dau, at the Collingswood Hotel, New York, New York.

4. In or about July 1972, co-conspirator Mui Kai Foon, also known as Mung Wong, purchased approximately one half pound of heroin from co-conspirator Or Choi Sik, also known as Danny Or and also known as Ah Dau, at the Collingswood Hotel, New York, New York.

5. In or about October 1972, co-conspirator Lam Kin Sang met with the defendant, Suey Wing Ng, also known as Ah Suey at Hong Gung Restaurant, 30 Pell Street, New York, New York, at which time Suey Wing Gn, also known as Ah Suey, asked Lam Kin Sang to find a customer for one and a half pounds of heroin that he, Suey Wing Ng, also known as Ah

Suey.

There was twenty-three overt acts here. Since I am going to give these all to you, there is no reason for me to read them. There is a list of various overt acts, including some upon which the substantive charges are based. Some of those overt acts, those which I read, refer to criminal conduct allegedly the object of the conspiracy, such as the distribution of heroin and purchases. You will find there are other overt acts which upon the surface appear innocent. For example, there is a reference to giving a sum of money -- I will read this to you.

Overt Act No. 8 states:

"In and about October 1972, co-conspirator Lam Kin Sang gave $11,500 to the defendant, Suey Wing Ng, also known as Ah Suey."

To give a sum of money to another person is not necessarily, in and of itself, criminal conduct, but when, as the Government charges and if you do so find, the money was in payment of the purchase of heroin and to effect its distribution, then that payment sheds its innocent character and becomes an overt act to further the purpose of an illegal enterprise.

It is not necessary for the Government to prove that each member of the conspiracy committed or participated in

the particular overt act, since the act of any one done in furtherance of the conspiracy, as I have already told you, becomes the act of all the other members.

Also, the Government is not required to prove each of the twenty-three overt acts alleged in the indictment. It is sufficient if it proves the commission of at least one of the acts at or about the time alleged, in the Southern District of New York, and the fact is, I read one or two to you already as to which there was no evidence, as far as I can recall, with respect to the Collingswood Hotel. All the Government is required to prove is the commission of at least one of the overt acts by one of the alleged participants within the Southern District of New York, and I charge you now that the Borough of Manhattan is in the Southern District of New York.

A final word:

While the indictment as I read to you charges that the conspiracy existed from on or about the first day of July 1972 and continuously up to April 1, 1973, it is not essential that the Government prove that the conspiracy started and ended on or about those specific dates. Actually, the Government's proof encompassed the period from July 1972 to January 1973. It is sufficient if you find that in fact a conspiracy was formed and existed within the period set forth

in the indictment, and, as I have already said, that at least one of the overt acts was committed in furtherance thereof within that period.

In sum, under the conspiracy count, in order to convict Suey Wing Ng, you must find beyond a reasonable doubt: one, the existence of the conspiracy as charged in the indictment; two, a knowing participation in that conspiracy by him and, three, the commission of any overt act in the Southern District of New York, whether performed by Suey Wing Ng or one of the other co-conspirators.

Now let us turn to the substantive counts.

The second count reads:

"The grand jury further charges in or about October 1972, in the Southern District of New York, Suey Wing Ng, also known as Ah Suey, the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately one and a half pounds of heroin."

Then there are the third, fourth, fifth, sixth and seventh counts, which are also substantive counts, except they set forth a different date with respect to a different alleged transaction. However, they charge a violation of the same law.

I have already read to you the law upon which this

substantive violation is based, and it is desirable to read it again. It provides in pertinent part:

"It shall be unlawful for any person knowingly or intentionally to distribute or possess with intent to distribute a controlled substance."

I instruct you that under this law heroin is a narcotic controlled substance.

Each substantive count is based on the testimony of Lam Kin Sang of the purchase by him from the defendant of heroin on specific occasions and its delivery, which testimony was also offeredin support of the conspiracy charge.

In order to find the defendant guilty under a substantive count, the Government must establish beyond a reasonable doubt as to that count the following essential elements.

1. That on or about the dates charged therein, the defendant, Suey Wing Ng, distributed or possessed with intent to distribute heroin, a narcotic controlled substance.

2. That he did so knowingly or intentionally. This means that he knew what he was doing, and the distribution or possession with intent to distribute was deliberate and purposeful, that his acts and conduct were calculated and not due to inadvertence, negligence or mistake.

3. That the substance referred to was in fact

heroin, a narcotic controlled substance.

A few further words about these elements.

You will note that under the first element the offense is either the distribution or possession with intent to distribute a narcotic drug. The word "distribution" is used in its ordinary sense. It simply means the transfer, to pass on or hand over to another.

The word "possess" means to have something within your control. This does not necessarily mean that you must hold it physically. As long as an object is under your control, you possess it.

The word "intent" refers to a person's state of mind.

So the term "possess with intent to distribute" means to control an item with a state of mind or purpose to transfer or pass that item or deliver it to another person.

Onefurther instruction on the word "possess". Possession may be of two types: actual or constructive. Actual possession means that a defendant knowingly has personal, manual or physical control of the narcotics. Constructive possession exists where the narcotics are in the physical possession of or handled by another person, but a defendant or a person alleged to have constructive possession has the power to exercise control over the narcotics or their dis-

tribution, their movements, or to set the price for their sale or to cause the delivery.

Either type of possession may be proved by direct or circumstantial evidence or a combination of both. In this case, the Government contends that it has shown both physical and constructive possession of heroin by Suey Wing Ng, that actual physical possession was shown on two occasions when Lam testified that Suey Wing Ng personally handed or delivered the heroin to him at the gambling club. Here, it contends that in order to hand the heroin over to Lam, the defendant necessarily had it in his manual possession. It urges constructive possession was shown when Lam testified that Suey Wing Ng instructed him where to find the heroin and thereafter Lam and his buyers found the heroin at the prescribed location on the stairway in the building on Canal Street.

A final word as to the third element, that the substance was in fact heroin.

Since possession of such a drug is an essential element of the crime charged, you must so find beyond a reasonable doubt. The Government did not produce, with respect to four of the counts -- that is, the substantive counts -- the heroin allegedly transferred. Just as any other component of the crime, the existence of and dealing with narcotics may be proved by circumstantial evidence. There

need be placed no sample before the jury, nor need there be testimony by chemists, so long as the evidence furnishes a basis for inferring that the material in question was narcotics.

The Government relies on the testimony of Lam Kin Sang and Danny Or, among others, who participated in these transactions and who allegedly were experienced in dealing with heroin and knowledgeable as to its characteristics. Thus, the Government offers circumstantial proof -- the secrecy and deviousness with which the transactions were handled, the fact that the substance with which they were dealing was a brown, pellet-like substance, the high prices paid for the substance -- the lack of complaint on the part of the purchaser, and some said it was fine or okay, to establish that the materials in question was narcotic drugs, specifically, heroin.

The Government did offer, however, in the instance of two transactions, quantities of heroin which had been sold by Danny Or to Rodriguez, an undercover police officer, who testified before you.

You also heard the testimony that this heroin came from the defendant Suey Wing Ng, through Lam, to Danny Or and then to Rodriguez, then undercover police officer.

It was stipulated that if a chemist were called he would testify that the contents of the packages which

Rodriguez testified he purchased [illegible] heroin.

Varying amounts are: in Exhibit 10, fifteen ounces; in Exhibit 11, one pound, six and a quarter ounces; and in Exhibit 11-D, seven and a quarter ounces.

Let us turn to the testimony with respect to the charges. Since counsel for the Government and the defendant reviewed in extensive detail the evidence and emphasized their respective contentions, this outline will be in rather broad terms.

The Government's case rests in the main upon the testimony of two witnesses: Lam Kin Sang and Danny Or, who, the Government charges, were members of the conspiracy, as well as the defendant. Each testified in detail as to the various heroin transactions, and the Government contends that the source of supply of the illicit drug was the defendant.

Lam's testimony was to the effect that in October 1972 the defendant, at a restaurant in Chinatown, asked Lam if he could find a buyer for heroin; that they agreed upon a price of $11,500, and from that time on, he engaged in a series of six transactions with the defendant, who told Lam that the heroin could be picked up on the third floor of 179 Canal Stree, the location of a Volleyball Club or Viking Club, which was done in each instance, except that on two occasions the defendant made a direct delivery of heroin to

Lam at his gambling club.

Lam further testified that in turn he sold and distributed to others the heroin which he had purchased from the defendant, including two sales to Danny Or, known to Lam as Ah Dau, who with respect to one transaction gave testimony which, if accepted corroborates Lam's testimony.

Or also testified as to three purchases of heroin from the defendant, whom Or knew as Wing Chong. These were made in association with one Ah Sai when they went to a laundry in the Bronx. These transactions Or testified occurred in August, September and October 1972.

In sum, the Government contends that the totality of its evidence establishes the defendant was a substantial supplier of heroin which he knew was being distributed by his purchasers to others and so was a member of the conspiracy to distribute the heroin as charged in the indictment.

As to the substantive counts, the Government also relies upon the testimony of Lam and Or with respect to specific transactions which it contends fully establishes the distribution of heroin by the defendant on the date charged in each count.

The Government further urges that, absent an adequate explanation, the substantial increase in the defendant's savings and checking accounts during the period

when Lam and Or testified to illicit transactions with the defendant is circumstantial evidence which warrants the inference that the increase reflects the net proceeds of those transactions.

The defendant categorically denied the testimony of Lam and Or. The defendant charges that the testimony of Lam Kin Sang was inspired by ill will because of a refusal to make a loan; also that both Lam and Danny Or have falsely accused him in an effort to help themselves obtain reduced sentences.

The defendant denies he ever went to Lam's gambling house, which was next door to his place of business. The defendant categorically denies he engaged in any narcotics transactions with Lam or that he ever placed or caused to be placed any heroin at 179 Canal Street.

The defendant denies he even knew Danny Or. He did testify he knew a man named Ah Sai, who patronized his laundry shop. As far as Danny Or was concerned, the defendant denied he ever road in any car with him or with Ah Sai to the Bronx.

In sum, the defendant categorically denied heroin transactions with either of these witnesses.

As to the substantial increase in his savings and checking accounts, defendant testified that these were the

result of borrowings from persons in connection with an expansion of his business which never materialized, and that a part of the moneys belonged to his children.

In sum, he denies that he engaged in any conspiracy with either Lam, Or or any other person or that he was involved in any transaction with them.

I have not adverted to all the evidence upon which the Government and defendant rely to support their respective contentions. All evidence, whether or not I referred to it, is important and must be considered by you.

In my outline of the testimony I have sought to state the substance thereof with complete accuracy. However -- and I mentioned this to you before -- if perchance any reference to testimony does not agree with your recollection, you are to disregard the references by me and rely entirely upon your own recollection.

It must be apparent that the versions of the Government witnesses and the defendant are in sharp diversion on essential matters. It may be suggested that this conflict on essential matters is so irreconcilable that it cannot be due to forgetfulness or lack of recollection. In short, it is fair to suggest that perjury has been committed either by the Government witnesses, their main witnesses, or the defendant.

You are called upon to decide the fact issues. How do you decide them?

I think I mentioned at the start of the trial that it would be desirable and important for you not only to listen but to look at witnesses as they testified. I then told you, without knowing a single fact pertaining to the case, it was likely certain matters would be in dispute, and so it has occurred.

Your determination of the issue of credibility very largely must depend upon the impression that a witness made upon you as to whether or not he was telling the truth or giving you an accurate version of what occurred.

I often say to jurors, when you walk in the door of the courtroom and sit in the jury box while a trial is going on and when you deliberate in the jury room, you have your common sense, your good judgment and your experience with you. You decide whether or not a witness was straightforward and truthful, whether he attempted to conceal anything, whether he has a motive to testify falsely, whether there is any reason why it might color his testimony.

In passing upon a witness' credibility, you may consider that he has a prior criminal record. However, it by no means follows that such a person has not testified truthfully before you. The ultimate question for you to decide in passing

upon credibility is, did the witness tell the truth before you as to essential matters? It is for you to say whether a witness at this trial was truthful in whole or in part and in the light of his demeanor and all the evidence in the case.

The law permits but does not require a defendant to testify in his own behalf. The defendant has taken the witness stand. Obviously, he has a deep personal interest in the result of his prosecution. Indeed, it is fair to say he has the greatest stake in its outcome.

Interest creates a motive for false testimony. The greater the interest, the stronger the motive, and a defendant's interest in the results of his trial is of a character possessed by no other witness.

In appraising his credibility, you may take that fact into consideration. However, it by no means follows that simply because a person has a vital interest in the end result he is not capable of telling a truthful, candid, straightforward story. It is for you to decide to what extent if at all his interest has affected or colored his testimony.

The fact that two witnesses who testified in support of the Government's case were law enforcement officers does not require that you give their testimony any greater weight or credence than that accorded to any other witness. Their

credibility is to be judged by the same standards applied to other witnesses who testified, taking into account their manner, demeanor and motives and other factors which bear on credibility.

Lam and Or gave the principal evidence upon which the Government's case rests. They were by their own admission participants and accomplices or members of the conspiracy charged in the indictment.

In the prosecution of a crime, the Government is frequently called upon to use witnesses who are accomplices. Often, it has no choice. The Government must rely upon such witnesses as there are to these transactions. In many cases, the prosecution would not be possible unless such witnesses were available.

There is no requirement in the Federal law that the testimony of an accomplice be corroborated. A conviction may rest upon the uncorroborated testimony of an accomplice, if you believe it and find it credible.

The fact that a witness is an accomplice may be considered by you as bearing upon his credibility. However, it does not follow that because a person has acknowledged participation in the crime charged against the defendant he is not capable of giving a truthful version of what happened. His testimony, however, should be viewed with caution and

scrutinized carefully. Was his testimony inspired by any motive of reward, self interest or hostility to the defendant so that he gave false or colored testimony against him?

If you find that it was, you may reject it, and in this case I would say that if you do not believe the testimony of the two main witnesses, the structure of the Government's case falls. However, if after a cautious and careful examination of a witness' testimony and his demeanor upon the witness stand you are satisfied that he told the truth as to essential matters, there is no reason why you should not accept it as credible and act accordingly.

If you find that any witness -- and this applies to all witnesses, Government and defense witnesses -- has wilfully testified falsely as to any material fact, you have a right to reject the testimony of that witness in totality or to accept only that part or portion which commends itself to your belief or which you may find corroborated by other evidence in the case.

The defendant has called witnesses who have testified to his character or, more correctly, to his reputation in the community for honesty, truthfulness and integrity. You should consider this evidence together with all other evidence in determining his guilt or innocence. Evidence of good reputation may in itself create a reasonable doubt where

without such evidence no reasonable doubt would exist. But if from all the evidence you are satisfied beyond a reasonable doubt that the defendant is guilty, a showing that he previously enjoyed a good reputation or the reputation of good character does not justify or excuse the offense, and you should not acquit him merely because you believe he has been a person of good repute.

The Government to prevail must, with respect to each count, establish the essential elements by the required degree of proof, as already explained in these instructions. If it succeeds as to a particular count, your verdict should be guilty. If it fails, it should be not guilty.

You must consider each count separately and render a separate verdict as to each. Thus, you may render a verdict of guilty on all counts, not guilty on all counts or guilty on one or more and not guilty on the others, as the case may be.

To report a verdict as to a count, it must be unanimous.

Your function is to weigh the evidence in the case and to determine the guilt or innocence of the defendant solely upon the basis of such evidence and these instructions. Under your oath as jurors, you cannot allow a consideration of the sentence which may be imposed upon the defendant, if

the evidence warrants a verdict of guilty, to enter into your deliberations or to influence your verdict in any way. Your duty is to decide the case solely and only upon the evidence. In the event of conviction, the duty of imposing sentence rests solely with the Court.

Each juror is entitled to his or her own opinion, but each should, however, exchange views with fellow jurors. That is the very purpose of jury deliberations: to discuss and consider the evidence, to listen to the arguments of fellow jurors, to present your individual views, consult with one another and to reach a verdict based solely and only on the evidence.

Each must decide the case for himself or herself after consideration with his or her fellow jurors. You should not, however, hesitate to change an opinion which, after discussion with your fellow jurors, appears erroneous. If after listening to discussion with your fellow jurors you are persuaded that an originally held point of view should yield in the light of the evidence and the law, there is no reason why you should not change that originally held point of view, provided always your final vote reflects your individual conscientious judgment as to how the case should be decided.

I have already mentioned that I am going to give you a copy of theindictment, so that you have the charges before

you, and I also have a check list with respect to each count for you to report whether your verdict is guilty or not guilty. It is marked "Conspiracy Count, Count 1", and on the side you fill in whatever your verdict is, and the same the substantive counts.

I suggest you remain in the jury box, and I will hear the lawyers in the robing room.

(In the robing room.)

THE COURT: You may state your exceptions.

MR. O'ROURKE: No requests or exceptions.

MR. KAUFMAN: No exceptions.

(In open court.)

THE COURT: Juror 13, the alternate juror, we will have to excuse you. I think you all understand the importance of alternate jurors in order not to balk or delay the trial.

(Discussion off the record.)

(The deputy marshal was sworn.)

THE COURT: Members of the jury, you may go with the marshal.

(At 11:08 a.m., the jury left the courtroom, in the custody of the deputy marshal, to begin deliberating upon a verdict.)

(At 11:40 a.m.; jury in box:)

THE COURT: Members of the jury, I have a note in

JWP 36

which you ask for the complete testimony of Mr. Lam and Mr. Danny Or. You are entitled, of course, to have any part or all of of the testimony you want, but do you realize this will take four or five hours to read? I am wondering whether or not there are certain specific portions you want which we can find and have read to you.

If you want it all, you can have it, but it is going to take four or five hours.

THE FORELADY: One of the jurors requested it as soon as we sat down.

JUROR NUMBER 7: Excuse me, your Honor. That is the first part I request.

THE COURT: First part of what?

JUROR NUMBER 7: The first day of Mr. Lam and Mr. Or, please.

THE COURT: We will read as much as you require. If you feel we have reached the point where you have heard what you want -- and, as I say, you are entitled to all, but it is really a retrial of it from beginning to end -- Why don't we start then, and then, when you feel you have heard whatever you want, either indicate that you have enough or that there are other portions that you wish read.

(Record read.)

JUROR NUMBER 7: We have everything we want, your

Honor.

THE COURT: You may resume your deliberations.

(At 12:17 p.m., the jury left the courtroom to re
sume deliberating upon a verdict.)

xxx (Court's Exhibit 1 marked for identification.)

(A note was received from the jury at 2:35 p.m.)

(Jury in box:)

THE COURT: I have a note from the jury which rea

"Does the not guilty or guilty verdict have to be
in the majority or unanimous?"

In my original instructions to you I told you tha
in order to report a verdict on any count in the indictment
it must be a unanimous verdict.

You may resume your deliberations.

(The jury left the courtroom to resume deliberati
upon a verdict.)

(At 4:32 p.m.; jury in box:)

THE COURT: I have two notes. One reads:

"The jury is at an impasse. No verdict has been
reached. We are deadlocked."

It is signed by the foreman.

I have another note, which reads as follows:

"The jury has been unable to reach a verdict on an
counts today. However, we feel we may be able to reach

a verdict after recess until tomorrow morning. We will be unable to serve justice fairly in our current state. We are reaching a state of frustration, exhaustion. We are also concerned with the prospects of being accommodated in a hotel this evening if we continue this impasse. If so, some of us must inform our families.

"Thank you for your Honor's consideration."

It is signed by three jurors.

First, let me refer to this last item. I had planned, if you did not reach a verdict by dinner hour -- because I feel that upon full reflection, if you did not reach a verdict by that time, I would not keep you here tonight or send you to a hotel -- to keep you for some time and then, if you did not reach a verdict, to bring you back some time tomorrow.

One of the problems that does exist -- and I have thought about it -- is the fact that some of the members of the jury may want to attend services tomorrow morning.

At this point, just by a show of hands -- Well, before I do that, let me make some comment.

Obviously, this is an important case. It is important to the Government, for the enforcement of criminal laws is of prime concern to the community. Equally, it is important to the defendant, who is charged with serious crimes. It is

desirable if a verdict can be reached that this be done, both from the viewpoint of the defendant and the Government. This, of course, means only a verdict which reflects the conscientio judgment of each juror.

The Court has no purpose to ask -- and indeed it does not have the right to inquire -- as to your respective positions. It is normal for jurors, upon initial consideration of matters, to have differences. This is quite common. Also, as I mentioned in my main charge this morning, frequently jurors, after extended discussion may find that a point of view which originally reflected a fair and considered judgment might well yield upon the basis of argument and reconsideration of the facts in evidence.

I want to make a reference to a viewpoint expressed by the Supreme Court of the United States many years ago in an opinion -- and I am quoting:

> "Although the verdict must be the verdict of each individual juror and not a mere acquiescence in the conclusion of his fellows, yet they should examine the question submitted with candor and with a proper regard and deference to the opinions of each other, that it is their duty to decide the case if they could conscientiously do so. They should listenwith a disposition to be convinced of each other's arguments, that if the much

larger number were for conviction, a dissenting juror should consider whether his doubt was a reasonable one which made no impression upon the minds of so many men equally honest, equally intelligent as himself.

"If, upon the other hand, the majority was for acquittal, the minority ought to ask themselves whether they might not reasonably doubt the correctness of a judgment which was not in accordance with theirs."

I emphasize, after having read that view, that no juror must vote for any verdict unless after full discussion and consideration of the issues and exchange of views it does represent his or her considered judgment.

Just by a show of hands -- and I indicated that I am prepared to let you go until tomorrow morning at some time -- but would there be any purpose now, say, if you deliberated for another hour, or until seven o'clock, until the dinner hour? How many feel some purpose would be served by deliberating until a quarter of seven, or for another hour or so?

How many would rather go over until tomorrow morning?

Well, I think more would rather go over until tomorrow morning.

Now, there is the problem of the holiday tomorrow. Normally, I would bring you in very early in the morning. Without asking individuals, suppose we brought you in at 11:15

tomorrow. Would that be an accommodation to all of you? Would that be agreeable to all of you, bearing in mind that tomorrow is a holy day?

All right. That is what we will do.

Now, please bear in mind my instructions given at the start of the trial. Once you leave here, you are not to discuss the case among yourselves, with any person or allow anybody to talk to you about the case. In other words, I am reinstating the original instructions: once you leave here, you don't deliberate any further, and when you come here tomorrow morning, you are not to -- when you go into the jury room, I want you to report to the jury room as you always did, but, again, do not discuss the case until I convene court. First, I want to make sure that all the jurors are here. I will convene court, and when I get here, I will send you back to the jury room, and then you will start your deliberations.

Again, with that, I will say good night to all of you. Have a good, restful night.

(The jury left the courtroom.)

(Court Exhibits 3 and 4 marked for identification.)

(Adjourned to March 28, 1975, at 11:15 a.m.)

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gwmch 1

UNITED STATES OF AMERICA

V. 75 Cr. 173

SUEY WING NG, a/k/a "AH SUEY"

March 28, 1975
11:15 a.m.

(In open court; jury present)

THE COURT: I see we are short the forelady. We will have to wait.

Has everybody ordered lunch?

A JUROR: We started but haven't finished.

THE COURT: Why don't you go back? I don't know what held her up. I hoped everybody would be here promptly so we could start. Go back.

(At 11:21 a.m., the jury started to leave the courtroom.)

THE CLERK: The forelady is here.

THE COURT: Have them come back.

(Jury present)

THE COURT: We are ready to start. I suggested, in order to save some time, that we have lunch in today and some of the jurors have already ordered their lunch. Those who haven't, you do that first and then resume your deliberations.

Go back.

(At 11:22 a.m., the jury retired to further deliberate.)

MR. KAUFMAN: The following was turned over to the defendant:

With respect to the witness Lam Kin Sang, 3501-A, which is a USA interview sheet; 3501-B, which was Lam's prior indictment 72 Cr. 471; 3501-C, which were notes of Barbara Rowan of an interview with the witness' wife; 3501-D, Lam's grand jury testimony on August 21, 1974 and February 19, 1975; 3501-E, a redacted report from the Drug Enforcement Administration, a DEA-6 report; 3501-F, a redacted version of Lam's grand jury testimony on September 18, 1974; 3501-H, Lam's testimony at his own trial; 3501-I, Lam's rap sheet.

With respect to the witness Danny Or, 3502-A, his grand jury testimony from October 9, 1974; 3502-B, a Drug Enforcement Administration report dated July 1, 1974; 3502-C, a similar report dated August 17, 1974; 3502-D, the witness' rap sheet; 3502-E, redacted letter by the United States Attorney's Office to Frank Rogers of the Special Narcotics Prosecutor's Office.

For the witness Jack Toal, 3504-A, his report of the defendant's arrest.

Witness Ralph Rodriguez, 3505-A, his notes dated

December 19, 1972; 3505-B, another set of notes with the same date; 3505-C, his report dated December 26, 1972; 3505-D, his activity report sheets dated December 18, 1972; 3505-E, expense account sheets dated December 26, 1972; 3505-F, his notes dated December 28, 1972; 3505-G, his notes for the same date; 3505-H, his report dated December 29, 1972; 3505-I, his activity report sheets dated 12/28/72; 3505-J, expense account dated 12/29/72.

(Recess)

(At 12:05 p.m., in the robing room)

(Discussion off the record)

THE COURT: I have a note from the jury which reads:

"The jury would like to know if the bank books of the defendant were accepted in evidence by the Court and, if so, would it be allowed for the jury to examine them."

With the consent of counsel, the note of the jury was answered as follows:

"The bank books are not in evidence. There is testimony, however, as to this matter and, if you desire, this will be read to you."

xxx

(Court Exhibit No. 5 was marked)

(At 4:50 p.m, in the robing room)

(Discussion off the record)

(In open court; jury present)

THE COURT: I have a note from the jury which reads:

"The jury would like to know if it may render a verdict on only one count since we are unable to reach a decision on the other six."

The answer is yes, if you are ready to report a verdict on the one count we will take it.

Are you ready?

THE FORELADY: It was just a question to clarify.

THE COURT: You may report a verdict on one count. I will take a verdict on any count upon which you reach a decision.

(At 4:52 p.m., the jury retired to further deliberate.)

xxx (Court Exhibit No. 6 was marked.)

(Recess)

(At 5:10 p.m., the jury entered the courtroom.)

THE COURT: I have a note from the jury which reads:

"We have reached a verdict."

THE CLERK: Members of the jury, please answer to your presence as your name is called.

(Jury roll called)

THE CLERK: Madam Forelady, has the jury agreed upon a verdict?

THE FORELADY: Yes.

THE CLERK: How do you find the defendant as to Count 1?

THE FORELADY: Guilty.

THE CLERK: How do you find the defendant as to Count 2?

THE FORELADY: Not guilty.

THE CLERK: How do you find the defendant as to Count 3?

THE FORELADY: Not guilty.

On Counts 2 through 6, we couldn't reach a unanimous decision, so I think, based on that, it's not guilty.

THE COURT: No, that is not correct.

In other words,you agree on Count 1 and the verdict is guilty on Count 1, but you have not come to a unanimous agreement on Counts 2 through 6?

THE FORELADY: So how do I respond?

THE COURT: "We have been unable to reach a verdict as to Counts 2 through 7."

Is that right?

THE FORELADY: Yes.

THE CLERK: I think we should poll the jury.

(The jury was polled and answered in the affirmative.)

THE CLERK: Your Honor, the jury has been polled. The verdict is unanimous on Count 1.

THE COURT: As to Counts 2 through 7, you say you are unable to reach a verdict and so say you all.

Members of the jury, before you leave, you have been a very conscientious jury and at it a long period of time. I just want tosay one word. You have been here a whole day. I don't mean to detain you very long in passing these comments, because I think a fair number of you have never served on a jury before.

How many never served before?

(Hands raised)

THE COURT: That is practically all, is that right?

Then my comments are particularly in order.

I think you probably have heard or perhaps friends who served on a jury speak of this, or you have seen this on TV or heard it over the radio, that after a jury returns a verdict, a judge thanks the jury for its services. This is fairly common and it's done even in this court by some

NOTICE OF APPEAL

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

United States of America, :

-against- :75 CR 173

SUEY WING NG, :

Defendant. :

----------X

S I R :

PLEASE TAKE NOTICE, that the defendant herein appeals to the Circuit Court of Appeals from the judgment of conviction rendered against him in this Court on the 28th day of April, 1975, as of all parts thereof.

Yours, etc.

DATED: New York, N.Y.
April 28, 1975

Carmine J. Perrotta
80 Broad Street
New York, N.Y. 10004

TO: Honorable Paul Curran
United States Attorney

Defendant's Address:

85-28 144th Street
Queens, New York

A 202 Affidavit of Personal Service of Papers — LUTZ APPELLATE PRINTERS, INC.

UNITED STATES COURT OF APPEALS
for the Second Circuit

UNITED STATES OF AMERICA., Appellee, - *against* - SUEY WING NG, Defendant-Appellant.	*Index No.* *Affidavit of Personal Service*

STATE OF NEW YORK, COUNTY OF New York *ss.:*

I, James Steele, *being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at* 250 West 146th, Street, New York, New York
That on the 19th *day of* May *19* 75 *at* 1 St. Andrews Place, N.Y. N.Y.

deponent served the annexed Appeal Sit *upon*

Paul Curran, U.S. Attorney-Eastern District

the Attorney *in this action by delivering a true copy thereof to said individual personally. Deponent knew the person so served to be the person mentioned and described in said papers as the* Attorney(s) *herein.*

Sworn to before me, this 19th
day of May *19* 75

Robert T. Brin

ROBERT T. BRIN
NOTARY PUBLIC, State of New York
No. 31-0418950
Qualified in New York County
Commission Expires March 30, 1977

James Steele

JAMES STEELE